

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JEFFREY NUZIARD, *et al.*,

Plaintiff,

v.

MINORITY BUSINESS DEVELOPMENT
AGENCY, *et al.*,

Defendants.

Case No. 4:23-cv-00278-P

District Judge Mark T. Pittman

APPENDIX TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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CONTENTS

1.	Exec. Order No. 11458, 3 C.F.R. § 779 (1969).....	MBDA MSJ App. 00001
2.	Exec. Order 11625, 3 C.F.R. § 616 (1971).....	MBDA MSJ App. 00003
3.	Julie M. Lawhorn, Cong. Research Serv., R46816, <i>The Minority Business Development Agency: An Overview of its History and Programs</i> (January 11, 2023).....	MBDA MSJ App. 00007
4.	<i>Minority Business Development Act of 1988</i> : Hearing on H.R. 1769 Before the H. Sub. Comm. On Procurement, Innovation, and Minority Enterprise Development of the Comm. On Small Bus., 100th Cong. (1988) (statement of Nicholas Mavroules, Congressman).....	MBDA MSJ App. 00016
5.	MBDA Business Center Guidance, issued October 23, 2024.....	MBDA MSJ App. 00019
6.	MBDA, “The Minority Business Development Agency—Vital to Making America Great”.....	MBDA MSJ App. 00021
7.	<i>Notice of Federal Funding</i> , 3-5 2022 (available at MBDA Business Center Program NOFO - 2022.pdf) (last visited October 25, 2023).....	MBDA MSJ App. 00023
8.	Transcript of Deposition of Matthew Piper.....	MBDA MSJ App. 00028
9.	Exhibit 2 from Deposition of Matthew Piper.....	MBDA MSJ App. 00052
10.	Exhibit 3 from Deposition of Matthew Piper.....	MBDA MSJ App. 00053
11.	Wisconsin Business Center Declaration.....	MBDA MSJ App. 00054
12.	Complaint (<i>Nuziard v. Minority Business Development Agency</i> , No. 4:23-cv-00278-P).....	MBDA MSJ App. 00056
13.	Email Exchange between Defendants’ Counsel and Plaintiffs’ Counsel Regarding Business Centers.....	MBDA MSJ App. 00084
14.	Transcript of Deposition of Christian Bruckner.....	MBDA MSJ App. 00090
15.	Exhibit 5 from Deposition of Christian Bruckner.....	MBDA MSJ App. 00113
16.	Orlando MBDA Business Center Contact Us Form – Christian Bruckner.....	MBDA MSJ App. 00117
17.	Orlando MBDA Business Center Email to Christian Bruckner.....	MBDA MSJ App. 00118
18.	Christian Bruckner Email to Orlando MBDA Business Center.....	MBDA MSJ App. 00120
19.	Orlando MBDA Business Center Referral Email to Christian Bruckner.....	MBDA MSJ App. 00121
20.	Orlando MBDA Business Center Referral to Strategic Partner.....	MBDA MSJ App. 00124
21.	Orlando MBDA Business Center General Welcome Email to Christian Bruckner.....	MBDA MSJ App. 00126
22.	Orlando MBDA Business Center Welcome Email to Christian Bruckner.....	MBDA MSJ App. 00129

23. Orlando MBDA Business Center Small Business Training Opportunity.....MBDA MSJ App. 00131
24. Orlando MBDA Business Center BBIF Financial Management Webinar Email.....MBDA MSJ App. 00140
25. Orlando MBDA Business Center EPA Pollution Prevention Grant Information Email.....MBDA MSJ App. 00150
26. Orlando MBDA Business Center EPA Grant Information Email....MBDA MSJ App. 00159
27. Orlando MBDA Business Center WMBI Conference & Pop-Up Bazaar.....MBDA MSJ App. 00162
28. Transcript of Deposition of Jeffrey Nuziard – Day 1.....MBDA MSJ App. 00165
29. Exhibit 2 from Deposition of Jeffrey Nuziard – Day 1.....MBDA MSJ App. 00206
30. Transcript of Deposition of Jeffrey Nuziard – Day 2.....MBDA MSJ App. 00207
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32. Teresa Owen-Cooper, *Nuziard is cited in assault: Summons alleges attack on student*, Colo. Springs Gazette, Sept. 27, 1995, at A6.....MBDA MSJ App. 00220
33. Dallas-Fort Worth Business Center Declaration.....MBDA MSJ App. 00223
34. Plaintiff Nuziard 2020 Schedule K-1.....MBDA MSJ App. 00226
35. Plaintiff Nuziard 2021 Schedule K-1.....MBDA MSJ App. 00228
36. Plaintiff Nuziard 2022 Schedule K-1.....MBDA MSJ App. 00230
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38. H.R. Rep. No. 94-468 (1975).....MBDA MSJ App. 00238
39. H.R. Rep. No. 97-956 (1982).....MBDA MSJ App. 00282
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Dated: October 27, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2023, a copy of the foregoing was filed electronically with the Clerk of the Court using the CM/ECF system, which will send notice to all attorneys of record.

/s/ Vendarryl Jenkins
Vendarryl Jenkins

Executive Order 11458

**PRESCRIBING ARRANGEMENTS FOR DEVELOPING AND COORDINATING
A NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE**

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Commerce.* (a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall—

(1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation and strengthening of minority business enterprise.

(2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations and volunteer and other groups towards the growth of minority business enterprises and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.

(3) Establish a center for the development, collection, summarization and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting the establishment and successful operation of minority business enterprises.

(b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may—

(1) Develop, with the participation of other Federal departments and agencies as appropriate, comprehensive plans of Federal action and propose such changes in Federal programs as may be required.

(2) Require the submission of information from such departments and agencies necessary for him to carry out the purposes of this order.

(3) Convene for purposes of coordination meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this order.

(4) Convene business leaders, educators, and other representatives of the private sector engaged in assisting the development of minority business enterprise or who could contribute to its development to propose, evaluate, and coordinate governmental and private activities in furtherance of the objectives of this order.

(5) Confer with and advise officials of State and local governments.

(6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented.

(7) Recommend appropriate legislative or executive actions.

SEC. 2. *Establishment of the Advisory Council for Minority Enterprise.* (a) There is hereby established the Advisory Council for Minority Enterprise (hereinafter referred to as "the Council").

(b) The Council shall be composed of members appointed by the President from among persons, including members of minority groups and representatives from minority business enterprises, knowledgeable and dedicated to the purposes of this order. The members shall serve for a term of two years and may be reappointed.

(c) The President shall designate one of the members of the Council as the Chairman of the Council.

(d) The Council shall meet at the call of the Secretary.

(e) The Council shall be advisory to the Secretary in which capacity it shall—

THE PRESIDENT

(1) Serve as a source of knowledge and information on developments in different fields and segments of our economic and social life which affect minority business enterprise.

(2) Keep abreast of plans, programs and activities in the public and private sectors which relate to minority business enterprise, and advise the Secretary on any measures to better achieve the objectives of this order.

(3) Consider, and advise the Secretary and such officials as he may designate on, problems and matters referred to the Council.

(f) For the purposes of Executive Order No. 11007 of February 26, 1962, the Council shall be deemed to have been formed by the Secretary.

(g) Members of the Council shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.

(h) The Secretary shall arrange for administrative support of the Council to the extent necessary including use of any gifts or bequests accepted by the Department of Commerce pursuant to law.

SEC. 3. *Responsibilities of other Federal departments and agencies.*

(a) The head of each Federal department and agency, or a representative designated by him, when so requested by the Secretary, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this order.

(b) The head of each Federal department or agency shall, when so requested by the Secretary, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise and activities as required by this order.

(c) The head of each Federal department or agency, or his designated representative, shall keep the Secretary informed of all proposed budgets, plans, and programs of his department or agency affecting minority business enterprise.

SEC. 4. *Construction.* Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer, or as abrogating or restricting any such function in any manner.



THE WHITE HOUSE,
March 5, 1969.

[F.R. Doc. 69-2847; Filed, Mar. 5, 1969; 3:03 p.m.]

EXECUTIVE ORDER 11625

Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise

The opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic justice for such persons and improve the functioning of our national economy.

The Office of Minority Business Enterprise, established in 1969, greatly facilitated the strengthening and expansion of our minority enterprise program. In order to take full advantage of resources and opportunities in the minority enterprise field, we now must build on this foundation. One important way of improving our efforts is by clarifying the authority of the Secretary of Commerce (a) to implement Federal policy in support of the minority business enterprise program; (b) provide additional technical and management assistance to disadvantaged businesses; (c) to assist in demonstration projects; and (d) to coordinate the participation of all Federal departments and agencies in an increased minority enterprise effort.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Commerce.* (a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall—

(1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.

(2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.

(3) Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the Nation in undertaking or promoting the establishment and successful operation of minority business enterprise.

(4) Within constraints of law and appropriations therefor, and according to his discretion, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special

problems of minority business enterprises or otherwise to further the purposes of this order.

(b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may—

(1) With the participation of other Federal departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by this order.

(2) Require a coordinated review of all proposed Federal training and technical assistance activities in direct support of the minority enterprise program to assure consistency with program goals and to avoid duplication.

(3) Convene, for purposes of coordination, meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this order.

(4) Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of this order.

(5) Confer with and advise officials of State and local governments.

(6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented.

(7) Recommend appropriate legislative or executive actions.

SEC. 2. *Advisory Council for Minority Enterprise.* (a) The Advisory Council for Minority Enterprise (hereinafter referred to as "the Council"), established by Executive Order No. 11458 of March 5, 1969, shall continue in existence under the terms of this order.

(b) The Council shall be composed of members appointed by the President from among persons, including members of minority groups and representatives from minority business enterprises, who are knowledgeable in this field and who are dedicated to the purposes of this order. The members shall serve for a term of two years and may be reappointed.

(c) The President shall designate one of the members of the Council as the Chairman of the Council.

(d) The Council shall meet at the call of the Secretary.

(e) The Council shall be advisory to the Secretary in which capacity it shall—

(1) Serve as a source of knowledge and information on developments in different fields and segments of our economic and social life which affect minority business enterprise.

(2) Keep abreast of plans, programs, and activities in the public and private sectors which relate to minority business enterprise, and advise

the Secretary on any measures to better achieve the objectives of this order.

(3) Consider, and advise the Secretary, and such officials as he may designate, on problems and matters referred to the Council.

(f) For the purposes of Executive Order No. 11007 of February 26, 1962, the Council shall be deemed to have been formed by the Secretary.

(g) Members of the Council shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5708) for persons in the Government service employed intermittently.

(h) The Secretary shall arrange for administrative support of the Council to the extent necessary, including use of any gifts or bequests accepted by the Department of Commerce pursuant to law.

SEC. 3. Responsibilities of Other Federal Departments and Agencies.

(a) The head of each Federal department and agency, or a representative designated by him, when and in the manner so requested by the Secretary, shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Secretary in the performance of his functions hereunder.

(b) The head of each Federal department or agency shall, when so requested by the Secretary, designate his Under Secretary or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.

(c) The officials designated under the preceding paragraph, when so requested, shall review and report to the Secretary upon the policies and programs of the minority business enterprise program, and shall keep the Secretary informed of all proposed budgets, plans and programs of his department or agency affecting minority business enterprise.

(d) The head of each Federal department or agency, or a representative designated by him, shall, to the extent provided under regulations issued by the Secretary after consultation with the official designated in paragraph (b) above, report to the Secretary on any activity that falls within the scope of the minority business enterprise program as defined herein and in those regulations.

(e) Each Federal department or agency shall, within constraints of law and appropriations therefor, continue all current efforts to foster and promote minority business enterprises and to support the program herein set forth, and shall cooperate with the Secretary of Commerce in increasing the total Federal effort.

SEC. 4. Reports. The Secretary shall, not later than 120 days after the close of each fiscal year, submit to the President a full report of his activities hereunder during the previous fiscal year. Further, the Secretary shall, from time to time, submit to the President his recommendations for legislation or other action as he deems desirable to promote the purposes of this order. Each Federal department or agency shall report to the Secretary as hereinabove provided on a timely basis so that the Secretary may consider such reports for his report and recommendations to the

THE PRESIDENT

President. Each Federal department or agency shall develop and implement systematic data collection processes which will provide to the Office of Minority Business Enterprise Information Center current data helpful in evaluating and promoting the efforts herein described.

SEC. 5. *Policies and Standards.* The Secretary may establish such policies, standards, definitions, criteria, and procedures to govern the implementation, interpretation, and application of this order, and generally perform such functions and take such steps as he may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

SEC. 6. *Definitions.* For purposes of this order, the following definitions shall apply:

(a) "Minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts.

(b) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any function vested in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or office exclusively, or as abrogating or restricting any such function in any manner.

SEC. 8. *Prior Executive Order.* Executive Order No. 11458 of March 5, 1969, is hereby superseded.



THE WHITE HOUSE,
October 13, 1971.

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The Minority Business Development Agency: An Overview of Its History and Programs

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Julie M. Lawhorn
Analyst in Economic
Development Policy

The Minority Business Development Agency: An Overview of Its History and Programs

The Department of Commerce's Minority Business Development Agency (MBDA) is the lead federal agency dedicated to assisting minority business enterprises (MBEs) in overcoming social and economic disadvantages that have limited their participation in the nation's free enterprise system. The MBDA's mission is to support the growth and global competitiveness of the minority business community. Through a network of local business development centers and other initiatives, the MBDA carries out this mission by providing technical and business assistance, support, and resources, as well as advocacy and research on behalf of MBEs.

MBDA's role and its services have shifted over time to address new and emerging challenges and opportunities. The agency was originally established as the Office of Minority Business Enterprise (OMBE) by Executive Order 11458, signed by President Richard Nixon in 1969. In 1979, the Carter Administration reorganized and renamed the OMBE as the Minority Business Development Agency (MBDA). The Carter Administration also refocused the agency's efforts on helping businesses of all sizes develop into medium and large-scale businesses, particularly in growth industries. The Reagan Administration established the Minority Business Development Center program, which became the MBDA's primary method for delivering technical and management services to minority businesses. The George H.W. Bush Administration proposed eliminating the agency and transferring its mission to the Small Business Administration (SBA), but ultimately continued the agency as an entity within the Department of Commerce. Successive Administrations have changed the agency's focus and reorganized the delivery of its assistance and services.

The agency was provided statutory authorization by the Minority Business Development Act of 2021 (Division K—Infrastructure Investment and Jobs Act, IIJA, P.L. 117-58), enacted on November 15, 2021. In August 2022, Donald R. Cravins Jr. was confirmed by the Senate as the first Under Secretary of Commerce for Minority Business Development.

After fluctuating amounts of funding in its early years, the MBDA received annual appropriations of almost \$60 million in the early 1980s. Its funding then generally declined, including a 27% reduction in annual appropriation between FY1995 and FY1996. By the late 1990s, MBDA's annual appropriations had fallen below \$30 million, where it largely remained for more than a decade. Since FY2013, MBDA's funding has more than doubled to a high of \$73 million in FY2021 before dropping to \$55 million in FY2022. The Consolidated Appropriations Act, 2023 (P.L. 117-328) funded the MBDA at \$70 million. In FY2020 and FY2021, Congress provided supplemental appropriations to MBDA to assist MBEs in preventing, preparing for, and responding to the COVID-19 pandemic.

Today, the agency's activities are designed to expand access to capital, markets, and contracts through public and private sector programs, policy, and research. MBDA clients include MBEs that are not less than 51% owned by one or more socially or economically disadvantaged individuals; and the management and daily business operations of which are controlled by one or more socially or economically disadvantaged individuals. Technical and managerial assistance and other services are principally provided to MBEs through a network of Business Centers, Specialty Centers, and other projects. The MBDA also coordinates with other federal agencies, nongovernmental organizations, and private firms to expand contracting and export opportunities for MBEs. In recent years, the MBDA has increased the number of access to capital initiatives and expanded its entrepreneurship education programs in partnership with historically black colleges and universities (HBCUs), minority-serving institutions (MSIs), and other institutions. In legislation authorizing the agency in statute in FY2022, Congress directed the MBDA to also establish the Rural Business Center program and regional MBDA offices and to further develop its research and data clearinghouse roles.

Current issues of congressional interest include the agency's implementation of new programs to reach MBEs, individuals, and communities; the agency's funding; and the integration of existing activities. The MBDA may seek to hire additional staff or otherwise increase its capacity to reestablish regional offices, administer existing and new programs, and activate additional roles, such as coordination among federal agencies and the development of new areas of technical assistance and research activities. Congress may be interested in the integration of MBDA activities with other agencies, such as the Small Business Administration. Congress may also be interested in options for the MBDA to take on new or expanded roles, services, and partnerships, or in reviewing additional coordination opportunities between MBDA and other federal agencies.

Contents

Introduction	1
MBDA Origins and Authority	2
E.O. 11625—Expanding Agency Role	3
Agency Reorganization.....	3
Agency Establishment	4
Funding History	7
Agency Overview	8
Mission and Structure	8
MBDA Clients.....	10
Programs	11
Business Centers	11
Specialty Centers	13
Rural Business Centers	14
Entrepreneurship Education Development Activities	14
Related Initiatives, Events, and Partnerships	15
Performance Metrics	19
Considerations for Congress.....	20
Implementation of Enabling Legislation.....	20
Duplication of SBA Activities.....	21
Additional Considerations.....	21

Figures

Figure 1. OMBE/MBDA Appropriations History: FY1970 to FY2023	7
--	---

Tables

Table 1. MBDA Performance Metrics, FY2016–FY2021	20
Table A-1. MBDA Appropriations, FY1970–FY2023	27

Appendixes

Appendix A. Additional Agency History.....	23
Appendix B. Assessments and Evaluations.....	30
Appendix C. Legislative Proposals, 96 th Congress–117 th Congress.....	33

Contacts

Author Information.....	35
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may have been rooted in a view of federalism which argues that these kinds of activities are the responsibilities of state and local governments and the private and nonprofit sectors, not the federal government. Supporters of the MBDA contend that the agency's mission is critical to the nation's economic future and that the agency's programs and services address a number of deficiencies and impediments faced by minority entrepreneurs.

As previously noted, Congress continued to provide the MBDA appropriations even as various Administrations and legislative proposals considered reorganizing the agency, defunding the agency's activities, or merging it into the SBA. Legislative proposals to transfer or establish the MBDA and its programs are included in **Appendix C**, and **Table A-1** provides a history of Administrations' annual budget requests and enacted appropriations for the agency since FY1970.

MBDA Annual Budget Requests and Enacted Appropriations, FY1970–FY2022

Table A-1 provides a history of annual budget requests and enacted appropriations for the MBDA since FY1970.

Table A-1. MBDA Appropriations, FY1970–FY2023

(in millions of dollars)

Fiscal Year	Admin. Request	Enacted
1970	1.5	1.2
1971	1.8	2.1
1972	3.5	43.6
1972 ^{supplemental}	40.0	40.0
1973	63.6	63.9
1974	74.5	35.6
1975	52.0	52.0
1976	52.6	49.8
1977	0.0	50.3
1978	50.3	49.4
1979	60.6	57.9
1980	58.8	58.9
1981	62.9	59.6
1982	65.4	56.6
1983	50.0	47.3
1984	54.0	53.9
1985	49.6	49.6
1986	44.8	43.0

federally chartered regional economic development agencies, including the Appalachian Regional Commission, the Delta Regional Authority, the Northern Border Regional Commission, and the Denali Commission; the Economic Development Administration and its programs; the rural development programs administered by the Rural Development Administration of the Department of Agriculture; and the Community Development Block Grant program administered by the Department of Housing and Urban Development. See CRS Report R46683, *Federal Resources for State and Local Economic Development*, by Julie M. Lawhorn.

Fiscal Year	Admin. Request	Enacted
1987	45.4	39.8
1988	4.6	39.7
1989	0.0	39.7
1990	0.0	39.7
1991	46.2	41.1
1992	0	42.6
1993	37.9	37.9
1994	46.0	44.1
1995	46.2	43.8
1996	47.9	32.0
1997	34.0	28.0
1998	28.0	25.0
1999	28.1	27.3
2000	27.6	27.3
2001	28.2	27.3
2002	28.4	28.3
2003	29.8	28.9
2004	29.5	28.9
2005	34.5	29.9
2006	30.7	30.0
2007	29.6	30.0
2008	28.7	28.6
2009	29.0	29.8
2010	31.0	31.5
2011	32.3	30.3
2012	32.3	30.3
2013	28.7	27.5
2014	29.3	28.0
2015	28.3	30.0
2016	30.0	32.0
2017	35.6	34.0
2018	6.0	39.0
2019	10.0	40.0
2020	10.0	52.0
2021	10.3	73.0
2022	70.0	55.0
2023	110.0	70.0

Source: Budget Appendices of the United States, FY1970-FY2023.

Notes: In FY2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136) provided the MBDA an additional \$10 million in supplemental funding in addition to \$42 million in annual appropriations, for a total of \$52 million. The supplemental funding was to assist MBEs with preventing, preparing for, and responding to the COVID-19 pandemic through education, training, and advising grants to minority business centers and minority chambers of commerce. In FY2021, the Consolidated Appropriations Act (P.L. 116-260) provided the MBDA with \$25 million in supplemental funding, in addition to \$48 million in annual appropriations.

- During the 114th and 115th Congresses, no bills were introduced to formally establish the agency and its duties by statute.
- During the 116th Congress, Representative Jerry McNerney introduced H.R. 1432, the Minority Business Development Act of 2019, to redesignate and establish the MBDA as the Minority Business Development Administration. Later in the 116th Congress, Representative Al Green introduced H.R. 6869 and Senator Benjamin Cardin introduced S. 4208, both titled the Minority Business Resiliency Act of 2020. Both bills were designed to codify the agency by providing it statutory authorization and provide additional funding to help MBEs recover from the COVID-19 pandemic, among other activities. Later in 2020, Senator Benjamin Cardin introduced the Heroes Small Business Lifeline Act (S. 4818), and it included the Minority Business Resiliency Act of 2020 as a subtitle of the larger bill. Representative Karen Bass introduced H.R. 8352 and Senator Charles Schumer introduced S. 5065, which both included the Minority Business Resiliency Act of 2020 as a subtitle of the larger bill. During the 116th Congress, versions of the Heroes Act (H.R. 925, S. 4800, H.R. 8406) included language to establish the agency and fund emergency grants for nonprofit organizations and MBEs impacted by the COVID-19 pandemic, among other activities. Also during the 116th Congress, Senator Kelly Loeffler introduced S. 5011 to codify the MBDA and establish an Office of African American Affairs within the agency.
- During the 117th Congress, Senator Benjamin Cardin introduced two versions of the Minority Business Resiliency Act of 2021 (S. 1255 in April 2021 and S. 2068 in June 2021) to make permanent and expand the activities of the MBDA. Representative Al Green introduced companion legislation in the House (H.R. 2689). Senator Roger Wicker also introduced the Reaching America's Rural Minority Businesses Act of 2021 (S. 1749). The Minority Business Development Act of 2021 (Division K—Infrastructure Investment and Jobs Act, P.L. 117-58), enacted on November 15, 2021, provided statutory authorization for the agency.

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Acknowledgments

Retired CRS Analyst Eugene Boyd was the original author of CRS Report R45015, *Minority Business Development Agency: An Overview of Its History and Current Issues*, which was published in November 2017. Several sections of Mr. Boyd's report are included in this report. Mr. Boyd received research support from Christina Miracle Finch in the preparation of R45015.

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(Legislative day of Thursday, October 6, 1988)

The Senate met at 10 a.m., and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.
Thou wilt keep him in perfect peace, whose mind is stayed on thee: because he trusteth in thee. Trust ye in the Lord for ever: for in the Lord Jehovah is everlasting strength.—Isaiah 26:3-4.

God of Abraham, Isaac, and Israel, as pressure and tension inevitably build this week, may the Senators and their staffs be reminded of this practical and relevant reality from the Prophet Isaiah—God's perfect peace for those who stay their mind on Him—the everlasting strength of the Lord Jehovah for those who trust Him. Help them to see the wisdom of stealing a quiet moment in the day to turn mind and heart God-ward. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 12, 1988.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. BYRD. Mr. President, I hope that we can come to an agreement between the two sides, the Republicans and Democrats, and within each of the two sides pass the core drug bill and go home without amendments. This is a good bill. It has been developed over a period of quite a long time by a very talented and dedicated working group on each side, chosen by the two leaders, and the core bill has been introduced with the support of the two leaders; the leadership on both sides.

I know there is a proclivity on the part of Senators to try to load everything onto these last-minute trains that are leaving the station. We used to have a continuing resolution. Now we see an effort to tie riders onto important bills hoping that those horses will carry the riders to the President's desk.

I think that the need for statesmanship requires us to rise above that. We have an opportunity here to pass a good bill. The American people are deeply concerned about the pervasiveness of drugs that know no class lines, that saturate the back alleys, and make their way even into the living rooms of the affluent. The schools, the homes, even the churches of America are without guarantee from this awful enemy of our young people, and it does not strike just the young but it is a threat to the old as well. It is the enemy in our midst, and will continue to grow and threaten the lives of young people.

I was reading in the Post this morning about the number of young people who have been knifed, shot, and slain in this Capital City of ours as a result of violence that comes from drugs and the spreading of drugs.

So we have a responsibility to pass a drug bill, and we have a drug bill that is a good drug bill.

I hope we will not let this debate on the drug bill deteriorate into a political sideshow where we will all be taking political potshots, where we will be trying to indicate who can be the toughest, and who can be the John Wayne in the drug war. We can all be tough.

We have a good, tough bill. It carries the death penalty in it. But we can get bogged down worrying about who can be the toughest, and we can get into all kinds of trouble. We can have all kinds of amendments, and I think we ought to avoid that, and pass this drug bill. I am willing on this side to do everything I possibly can to keep down

amendments. I believe that on this side we can—I think we can—avoid offering amendments, any amendments except perhaps the one amendment to strike the death penalty. That will probably be bipartisan in its support, and there will certainly be bipartisan opposition to it, myself for one. We can defeat that motion to strike.

Then if we can avoid other amendments, include in the core bill the child pornography legislation that was recently passed—we did not pass it, but we adopted that amendment to the profamily package—include that, and the distinguished Republican leader may have an idea as to something he would also propose to be included as well. Then, say no more amendments, just debate this bill and go home, or at least send it over to the House. I have hopes and some reason to believe the House will accept our core bill. It might not. But I think it will.

In any event, we would have fulfilled our responsibility. We have a responsibility to do that, and to avoid getting down into the mud battles that are certainly possible and potential if we let our thirst for political potshots get the better of us.

I make that proposal. I am confident that the distinguished Republican leader wishes as much as I do to pass a good drug bill. I hope that we can do that.

I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is now recognized.

SCHEDULE

Mr. DOLE. Mr. President, I indicate to the majority leader that we are going to be meeting at 10:45 with the principal players on this side of the aisle. A couple of them are not available this morning, but we hope to have some information. I will meet with the majority leader later this morning.

There have been suggestions, and I think the core bill is a good bill. I think it was always perceived by some on this side as a starting point, not a completed product. We have Members on both sides with amendments they would like to add.

Also, there were Senators on both sides of the aisle meeting, and some of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Type of contract	Percentage
Under \$25,000 contracts.....	2

Total Small Business Participation.....	37
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To achieve the 40 percent, agency X, in accordance with section 713(b), may solicit contracts through set-asides pursuant to section 15(a). The set-asides should amount to 3 percent—that is, contracts worth approximately \$30,000—in order to attain the overall goal of 40 percent.

If after further monitoring during the second year the small business participation has risen above 40 percent and review of the contracting reveals at least 40 percent is through means other than section 713(b) set-asides, then operation of 713(b) is canceled and no further contracting is set aside until further reviews establish the need to do so.

In this competitive world, I believe it is important that we place emphasis on the ability of our small business concerns to win work in the unrestricted market. The Small Business Competitiveness Demonstration Program does this, while at the same time ensuring small business a fair proportion of the Federal Government market by establishing a 40-percent goal that can be attained if need be through set-asides.

One section of the demonstration program that still causes me concern is the portion which deals with refuse systems and related services. Contrary to past precedent, and contrary to the language of the bill, the goals in this area will be achieved by segmenting the 4-digit SIC codes to find a class of small business refuse collectors small enough to ensure that large businesses will have no problem taking a large percentage of their business.

I think that this is a bad precedent, although in this case it is true that the SIC codes are hopelessly inadequate to describe the activities included in the category. Segmenting the category, in this case, will simply mean that refuse haulers will now be competing with companies that are large enough to simply bury their competition.

I hope that those agencies administering the program will watch the progress of the refuse haulers' contracts very closely to make sure they are being handled fairly and without inflicting permanent damage on the small businesses in this category. Under the provisions of this bill and the conference, they at least will be able to have a hand in how the segmentation is done or if it is even necessary. The agencies in charge should take great care and listen to the small refuse collectors to insure that these businesses are not damaged.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I support the conference report. I was one

of the conferees. It is a good conference report, and I urge its adoption.

Mr. Speaker, in July of this year the House passed H.R. 1807, the Small Business Competitiveness Demonstration Program. One of the most important purposes of this Small Business Competitiveness Program is to demonstrate whether the competitive capabilities of small business firms in certain industry categories will enable them to successfully compete on an unrestricted basis for Federal contracting opportunities. Federal agencies shall seek to achieve their small business goals through unrestricted competition, and shall resort to restrictions on competition only if they cannot achieve their goals in the first instance. Agencies will assess their performance on a quarterly basis for each of the designated industry groups—not for each standard industrial classification code [SIC] within those designated groups.

This bill is designed to assist small business in doing business with the Federal Government. It will help them compete in a competitive marketplace and not be totally dependent on the set-asides program. Once a small business graduates from that program—and they will eventually graduate, they will be equipped with the experience and the know how to effectively compete in the Federal marketplace.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

The success of this program will depend on its administrative workability. Measuring the dollar value in each industry category in each agency will enable the Congress to know just how competitive small businesses can be.

I want to commend all of the committees which have worked so long on this report for their efforts, their concern for the small business community, and for their interests in furthering competition in the Federal marketplace.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, Mr. Speaker, I would like to echo the strong support of Chairman LAFALCE for the conference report on H.R. 1807—the Business Opportunity Development Reform Act of 1988.

As the original author of H.R. 1807, I believe it is appropriate that during this historic 100th Congress we take this action to strengthen an important small business program, the Minority Small Business and Capital Ownership Development, or 8(a) program. H.R. 1807 represents the first major reform of this program in over 10 years.

As originally established by Public Law 95-507, the purpose of the capital ownership development program is to promote the “competitive viability” of firms owned and controlled by socially and economically disadvantaged individuals. The section 8(a) authority allows agencies to award contracts

through the Small Business Administration [SBA] to these disadvantaged firms and is only one of many tools available to SBA to promote the competitiveness of disadvantaged business.

Unfortunately, the section 8(a) program has deviated from its congressional objective and has become a revolving door that randomly spins off firms that have completed an arbitrary participation period regardless of whether or not they indeed have become competitively viable. The 8(a) authority has been used merely to issue “hunting licenses” in the hopes that minority owned firms can capture a maximum amount of single source negotiated contracts during their term.

The system must be changed and must be changed now if we want to save this program.

That is why, when I served as chairman of the Subcommittee on Procurement, Innovation and Minority Enterprise Development, I introduced an 8(a) reform package, H.R. 1807.

During the six days of hearings that my subcommittee held on this proposal, we heard from several trade organizations and the 8(a) firms themselves. Certainly, those most affected are in the best position to give us a realistic and practical evaluation of this bill. I am also proud that our former chairman, Parren J. Mitchell, and the Reverend Jesse Jackson were able to take the time to testify at our hearings, bringing with them their extensive knowledge of the minority business community.

I am pleased that today, after more than a year of hard work we can present to you a strong bipartisan bill which will clarify the congressional intent that the 8(a) program is first and foremost a business development program.

I would like to commend the Chairman of the Small Business Committee, the gentleman from New York [Mr. LAFALCE], the ranking minority member, the gentleman from Pennsylvania [Mr. McDADE], and, of course, my friend, the gentleman from Massachusetts [Mr. CONTE], as well as all my fellow conferees, including members of the Black Caucus and the Hispanic Caucus, who contributed so greatly to this reform. And certainly all members of the staffs in both houses, particularly Tom Trimboli of the Small Business Committee of the House, who is the backbone of the staff, are to be thanked for the long hours they have put in to help us perfect this proposal.

Chairman LAFALCE already has outlined several of the major provisions of H.R. 1807—most important of which is the repeal of the current fixed program participation term, which we have extended out to 9 years. This term will be divided into a two-phase process of which 4 years

will be in the developmental stage and 5 years in the transition stage. In each phase, we have provided development assistance, in addition to 8(a) contracts, that is aimed at providing the firm with what it needs to become competitive in its industry. This development assistance includes employee training, technology, and surplus property transfers, exemptions from the Walsh-Healy and Miller Acts and special loan programs.

Furthermore, everyone involved with the 8(a) Program has recognized that in order to assist minority firms to become competitive we must introduce competition into the 8(a) Program. The question has always been how much competition and at what level. For that reason, we would allow competition above thresholds of \$5 and \$3 million.

I would like to take this opportunity to comment on a couple of provisions about which I feel most strongly.

In the first phase of the program, we provided financial assistance for firms to train or upgrade the skills of their employees. I want to stress that this assistance is not a duplication of the jobs training partnership act or other Federal programs which train unemployed individuals.

I think the words in our committee's report accurately sums up the reason why this particular assistance is needed:

Labor, as any other factor of production, has a cost associated with it. Part of that cost is the training and upgrading of job skills. Small minority concerns, because of their relatively small capital base and generally lower incomes, are more disadvantaged when it comes to competing for labor than are other business. . . . It is necessary, therefore, that the program address this issue and, in some way assist 8(a) firms to secure the skilled workers they need to become successful.

Job training is as critical to success as capital and management yet until now this aspect of business development has been ignored. I am pleased that my fellow conferees ensured that this important training provision remained in the bill. The \$2 million that we have authorized in this proposal will enable at least 800 employees of minority firms to receive training.

Another provision relates to the director of small and disadvantaged business utilization at the Department of Defense. This provision has important implications for all small and small disadvantaged businesses.

Until last Congress, the Sadbu directors in every agency reported directly to the head of any agency or that person's deputy. This director reporting requirement was intended to give the Sadbu director immediate access to top level policymakers and maximize his/her effectiveness as an advocate for small and disadvantaged businesses.

The National Defense Authorization Act for fiscal year 1987, Public Law 99-661, created a new position of Under Secretary of Defense for Acquisition who would direct all other offices in the Secretary of Defense's office who have acquisition responsibilities.

This has meant that the Sadbu director within DOD is in an inferior position—relative to other Sadbu Directors—relegated to the "remote corridors" of the Pentagon and denied a meaningful opportunity to affect policies and procedures affecting small business issues. I believe that it also is ineffectual to have the Sadbu Director report to the very person whose duties that director was intended to monitor.

I am pleased that we have reached a compromise on this matter—agreeing that the Sadbu Director for the Defense Department should report to the Secretary or his designee. With the critical importance of the Department's 5 percent program for minorities, and our desire to expand the military industrial base by reaching out to more small businesses, I am confident that the secretary will understand the necessity of having the Sadbu Director report directly to him. This position has become too critical to delegate the responsibilities or downgrade this position.

I also want to emphasize my support for a provision inserted by my colleague from California, Esteban Torres. As we all know, most Government contracts must contain subcontracting plans. However, investigations by the Small Business Committee found many instances of noncompliance by prime contractors. Congressman TORRES, therefore, added a sanction calling for liquidated damages if a contractor fails in good faith to live up to his subcontracting agreement.

The Defense Department has argued that the use of incentives may ensure greater compliance. I must point out that such incentive clauses have been on the books for years yet contractors still fail to fulfill their obligations. I am hopeful that the use of liquidated damages will encourage contractors to comply with the terms of their subcontracting agreements. Maximum utilization of small and small disadvantaged small businesses as subcontractors is in our national interest.

Before concluding, there is one additional section that I must comment on, which was by the Senate Small Business Committee. There is no question in anyone's mind that small businesses should receive a fair share of Federal contracts across all categories of items required by the Government. Agencies, however, have tended to use set-asides in industries where small businesses dominate, while ignoring small businesses that operate in other more high-tech areas.

Working together, the former chairman of the House Small Business

Committee and the chairman of the Armed Services Committee attempted to correct this problem in the last Congress. As part of the Department of Defense authorization bill, the Congress enacted section 921 of Public Law 99-661, which required SBA to reduce size standards in four pilot industries in which small businesses dominated in order to reduce the set-aside level to 30 percent of total purchases.

Unfortunately, the SBA has proposed size standard reductions that are extremely severe. In the construction industry, SBA used size standards which varied with each individual four digit SIC code. Congressmen LES ASPIN, DAVE MCCURDY and I wrote to the SBA indicating that nothing precluded the establishment of the same size standard for several related SIC codes. This would have served the industry's concerns and still accomplished the purposes of Public Law 99-661. I might add that the SBA did not heed this advice.

Since then, the Senate expressed its intention to revisit the set-aside issue as a part of the 8(a) reform package. The original Senate proposal called for the suspension of set-asides in the four pilot industries, allowing them to be reinstated only if the small business share in open competition for those industries fell below 30 percent.

In order to reach a compromise, and not jeopardize the 8(a) reform package, I joined with my House conferees in accepting a modified Senate proposal. This compromise raises the set-aside trigger to 40 percent. Also, small businesses in the lower half of the size standard in the four pilot industries would be guaranteed 15 percent of total purchases for contracts that fell within the small business reserve amount. As with an earlier House proposal, this compromise requires agencies to take action to increase small business participation in underrepresented industries.

While I remain concerned over potential dislocation in the affected industries, I am hopeful that we have fashioned an approach that will meet our objective of increasing overall small business participation in the Federal marketplace. As with my program, we must carefully monitor these provisions and take corrective steps when necessary.

To return to the 8(a) Program reforms, I believe that the requirements in H.R. 1807 will ensure that the legitimate needs and concerns of the 8(a) population will be properly heard and served. More small disadvantaged businesses should be able to participate in not only this effort but all Federal procurement programs. Our entire economy will benefit.

Mr. Speaker, I urge my colleagues to support this important bill.



UNITED STATES DEPARTMENT OF
COMMERCE
Minority Business Development Agency
Washington, D.C. 20230

Guidance to MBDA Business Center Operators

To: MBDA Business Center Operators

From: Donald R. Cravins, Under Secretary for Minority Business Development

Re: Guidance Regarding Eligibility

Date: October 23, 2023

This memorandum provides guidance on the MBDA Act eligibility requirements for MBDA Business Center Program services.

The purpose of the MBDA Business Center Program is to create and fund a national network of centers that assist minority business enterprises in accessing capital, contracts, and grants and creating and maintaining jobs. 15 U.S.C. § 9522. These centers also provide counseling and mentoring to minority business enterprises and facilitate the growth of minority business enterprises by promoting trade. 15 U.S.C. § 9522.

The MBDA Act defines “minority business enterprise” as “a business enterprise--(i) that is not less than 51 percent-owned by 1 or more socially or economically disadvantaged individuals; and (ii) the management and daily business operations of which are controlled by 1 or more socially or economically disadvantaged individuals.” 15 U.S.C. § 9501(9)(A).

The MBDA Act defines “socially or economically disadvantaged individual” as “an individual who has been subjected to racial or ethnic prejudice or cultural bias (or the ability of whom to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market areas) because of the identity of the individual as a member of a group, without regard to any individual quality of the individual that is unrelated to that identity.” 15 U.S.C. § 9501(15)(A).

The MBDA Act explains that the Under Secretary of Commerce for Minority Business Development “shall presume” that “socially or economically disadvantaged individual” “includes any individual who is--(i) Black or African American; (ii) Hispanic or Latino; (iii) American Indian or Alaska Native; (iv) Asian; (v) Native Hawaiian or other Pacific Islander; or (vi) a member of a group that the Agency determines under part 1400 of title 15, CFR, as in effect on November 23, 1984, is a socially disadvantaged group eligible to receive assistance.” 15 U.S.C. § 9501(15)(B). 15 C.F.R. 1400.1(b) codifies Executive Order 11625, which designates “Blacks, Puerto-Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts”

as individuals who are socially or economically disadvantaged. 15 CFR 1400.1(c) also designates “Hasidic Jews, Asian-Pacific Americans, and Asian Indians” as such.

Under the MBDA Act, an individual may meet the definition of “socially or economically disadvantaged individual” and thus be eligible to receive Business Center services if:

1. [Socially disadvantaged individual] The individual has been subjected to racial or ethnic prejudice or cultural bias because of the identity of the individual as a member of a group, without regard to any individual quality of the individual that is unrelated to that identity; *or*
2. [Economically disadvantaged individual] The individual’s ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area . . . because of the identity of the individual as a member of a group, without regard to any individual quality of the individual that is unrelated to that identity.

Under the Act, an individual who identifies as a member of one or more of the groups listed in 15 U.S.C. § 9501(15)(B) is presumed to be socially or economically disadvantaged: Black or African American; Hispanic or Latino; American Indian or Alaska Native; Asian (including South Asian); Native Hawaiian or other Pacific Islander; Hasidic Jews.

An individual does not need to identify as a member of one of these groups to be a socially or economically disadvantaged individual eligible to receive Business Center services under the MBDA Act. An individual may meet the definition if their membership in a group has resulted in their subjection to racial or ethnic prejudice or cultural bias or impaired their ability to compete in the free enterprise system. A “member of a group” may include, but is not limited to, a member of a religious group, a geographically defined group, or some other group sharing a common characteristic.

Business Centers should ensure that their operations and communications, including promotional materials, websites, and intake processes, as well as reporting under performance metrics that employ the definition of MBE, align with the MBDA Act as described above and in the updated client engagement form, which MBDA expects to implement in the near future.

The Minority Business Development Agency VITAL TO MAKING AMERICA GREAT



By 2044, the Nation's prosperity will rely even more on minorities, the fastest growing segment of the population. Entrepreneurship is a sure pathway to wealth creation and a thriving national economy. Today, U.S. minority business enterprises represent 29% of all firms but only 11% have paid employees. If MBEs were to obtain entrepreneurial parity, the U.S. economy would realize 13 million more jobs.

BUILDING PROSPERITY FOR AMERICAN FAMILIES

- Create a new generation of minority-owned firms with \$100M in annual revenue to **generate more jobs and help grow the U.S. economy** through targeted programs and services.
- **Increase wealth creation** that secures personal and family well-being, reduces dependence on government resources, and contributes to overall economic vitality.
- Cultivate successful minority-owned firms to **foster economic activity in local communities** and increase utilization of community benefits, such as transportation, infrastructure, housing and quality education.

EXPANDING ECONOMIC INVESTMENTS

- MBDA secures an annual average of **\$5.4B worth of contracts and financial investment** in minority-owned firms, increasing the number of businesses with revenues that exceed \$1M and **create jobs for Americans**.
- **MBDA leverages public-private partnerships** whereby the private sector contributes nearly \$5.5M annually in non-federal investments to the national network of MBDA programs.
- Minority-owned businesses **expand and diversify the tax base** creating sustainable communities with a steady rate of economic growth.

STRENGTHENING AMERICA'S COMPETITIVENESS

- **Position minority-owned firms to perform** in high growth industries, emerging markets, and corporate supply chains.
- **Reduce the trade deficit** by leveraging the unique assets of minority-owned firms in global markets.
- **Commission research reports and business analytics** that demonstrates the minority business community as a vibrant and growing business sector.

RETURN ON INVESTMENT: For every federal \$1 spent MBDA gets one of the highest returns for business assistance in the Federal Government. Over the past 10 years the Agency's programs and services have secured more than \$40B in contracts and capital, with accelerated performance averages and returns on investment.

The Minority Business Development Agency VITAL TO MAKING AMERICA GREAT



UNIQUE CHALLENGES FACED BY MINORITY FIRMS

Overall, minority-owned firms are smaller in size and scale than their non-minority counterparts. The gap in combined gross receipts is 10:1, with only 2% of minority firms generating gross receipts of more than \$1M and only 11% of minority-owned firms with paid employees.

CAPITAL

- Minority firms are more likely to be denied loans at a rate nearly 3x's higher than non-minority firms
- Minority firms are likely to pay higher interest rates; on average 7.8% while non-minority firms pay on average 6.4%
- Minority firms are less likely to receive loans; and when approved, receive lower loan amounts.

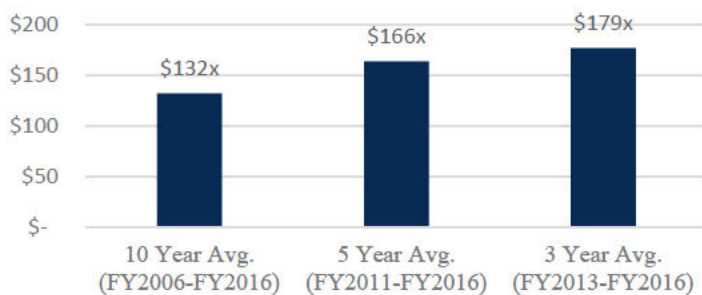
CONTRACTS

- Minority firms secure a lower number and dollar amount of contracts in proportion to the number of available minority firms in the relevant market.
- Pervasive barriers cited in contracting disparities studies include:
 - access to capital;
 - large contract sizes;
 - network access; and
 - marketplace inequities.

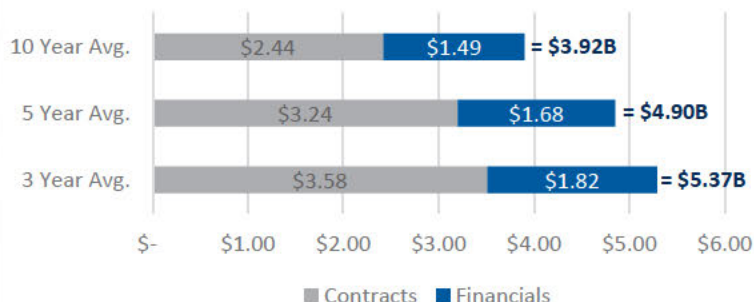
MBDA – THE SOLUTION PROVIDER

The only Federal Government agency solely dedicated to the growth and global competitiveness of minority business enterprise.

Return on Investment



Performance in Billions



MBDA:

- Provides access to market-based financing solutions.
- Facilitates teaming arrangements and mergers and acquisitions.
- Partners with private-sector Fortune 500 firms to provide access to global supply chains.
- Transitions minority 8(a) [SBA program] graduate firms to the private sector.
- Develops policy recommendations that address minority business inequities.

MBDA Business Center Program

TABLE OF CONTENTS

I. Funding Opportunity Description	3
A. Program Objective	3
B. Program Priorities	3
C. Program Authority	7
II. Award Information	7
A. Funding Availability	7
B. Project/Award Period	7
C. Type of Funding Instrument	8
III. Eligibility Information	8
A. Eligible Applicants	8
B. Cost Sharing or Matching Requirement	9
C. Other Criteria that Affect Eligibility	10
IV. Application and Submission Information	10
A. Address to Request Application Package	10
B. Content and Form of Application	10
C. Unique Entity Identifier and System for Award Management (SAM)	15
D. Submission Dates and Times	15
E. Intergovernmental Review	15
F. Funding Restrictions	15
G. Other Submission Requirements	16
V. Application Review Information	18
A. Evaluation Criteria	18
B. Review and Selection Process	19
C. Selection Factors	20
D. Anticipated Announcement and Award Dates	21
VI. Award Administration Information	21
A. Award Notices	21
B. Administrative and National Policy Requirements	21
C. Reporting	22
VII. Agency Contacts	23
VIII. Other Information	23

NOTICE OF FUNDING OPPORTUNITY

EXECUTIVE SUMMARY

Federal Agency Name(s): Minority Business Development Agency (MBDA), Minority Business Development Agency (MBDA), Department of Commerce

Funding Opportunity Title: MBDA Business Center Program

Announcement Type: Initial

Funding Opportunity Number: MBDA-OBID-2022-2007282

Federal Assistance Listings Number: 11.805, MBDA Business Center (MBC)

Dates: Complete applications will be accepted in Grants.gov up to 11:59 p.m. Eastern Time on June 6, 2022. Applications received after this time will not be reviewed or considered.

Funding Opportunity Description: This notice requests applications from qualified organizations to operate MBDA Business Centers in six states, Arkansas, Indiana, Oregon, South Carolina, Wisconsin and Utah. The Business Centers will facilitate the growth and job creation in minority business enterprises in their locales by providing expert technical assistance to minority business enterprises consistent with the terms of this Notice of Funding Opportunity. These programs align with the Minority Business Development Agency (MBDA) strategic mission goals to support minority business enterprises (MBEs) and the Administration's strategic priority to advance racial equity and support for underserved communities through the Federal government.

Pre-Application Teleconference: MBDA will conduct a series of pre-application teleconferences from 2:00-3:00pm Eastern time on the following dates with focus areas noted below:

- April 28 – General competition information, key changes from previous competitions and key dates, live Question and Answer session
- May 3 – Program priorities and objectives with examples, live Question and Answer session
- May 10 – Budget pitfalls to avoid and best practices, live Question and Answer session
- May 17 – Measuring success and performance, live Question and Answer session

Participants must register at least 24 hours in advance of the teleconference. Please visit the MBDA website at www.mbda.gov to register and view recordings of the teleconferences, as well as other additional information.

FULL ANNOUNCEMENT TEXT

I. Funding Opportunity Description

A. Program Objective

The Minority Business Development Agency (MBDA), a bureau of the U.S. Department of Commerce, assists minority business enterprises (MBEs) through its MBDA Business Center Program.

The Program supports a national network of Business Centers that provide high quality, technical assistance to MBEs. Business Centers provide counseling and mentoring to MBEs, assist MBEs to access capital, contracts and grants, facilitate the growth of MBEs by promoting trade, and support MBEs to create and retain jobs. The goal of these Business Centers is to further MBDA's core objective of promoting the growth and global competitiveness of America's MBE community.

MBDA is soliciting competitive applications from eligible entities to operate MBDA Business Centers as described in this Notice of Funding Opportunity (NOFO). MBDA anticipates awarding a total of approximately \$2,100,000 pursuant to this NOFO for cooperative agreements issued for the operation of a business center in each of the following states:

Arkansas
Indiana
Oregon
South Carolina
Wisconsin
Utah

The states were selected as those states that do not currently have a Business Center or Specialty Center and also have the highest number of MBEs in rank order (Source: Census 2017 Non-Employer and Employer Classifiable Firms). MBDA will evaluate applications based on the applicant's demonstrated ability to serve the community and states in which they are located. However, a Business Center may provide services to minority business enterprises located in any U.S. state or territory.

IMPORTANT: You must have physical office space in the state for which you apply.

B. Program Priorities

Centers must offer a wide array of assistance. This can be accomplished through a mixture of direct services or referral to other qualified organizations. The Business Centers

must offer programming and services across three categories: business development, capacity-building and navigation, described below.

Business Development: The Business Center must assist clients to increase revenues and profits. The Business Center is encouraged to focus on opportunities that increase MBE participation in public and private large-scale investments and high-growth industries, specifically, infrastructure, advanced manufacturing, innovation and emerging technologies. Business Centers may support MBEs in activities including, but not limited to:

- o Contracting Assistance: providing information and assistance to MBEs pursuing federal, state, local, and private sector prime contract and subcontract opportunities.
- o Infrastructure Investment and Jobs Act Procurement: providing information and assistance to MBEs pursuing federal, state, local and private sector prime contract and subcontract opportunities related to the 2021 Infrastructure Investment and Jobs Act.
- o Accessing supply chains: providing information and assistance to MBEs pursuing opportunities to participate in global supply chains.
- o Export promotion: helping MBEs identify and develop potential export markets, participate in trade shows, and connect with U.S. Export Assistance Centers.

Capacity Building: The Business Center is required to provide MBEs with one-on-one business counseling. The goals of these services may be to improve operational efficiencies, increase resources, build scale, manage risk, increase liability thresholds, strengthen management teams, facilitate access to financing, increase profits and owner equity, and integrate new technology and equipment. Business Centers may support MBEs in activities including, but not limited to:

- o Access to capital: increasing awareness of basic credit practices and credit requirements; assisting in the development of business plans, financial packages, and credit applications.
- o Management Counseling: assistance and resources relating to management, technological and technical assistance, financial, legal, and marketing services, and services related to workforce development.

Navigation: The Business Center must facilitate referrals and connections to an ecosystem of organizations that can support MBE growth and competitiveness. Referral organizations can include but need not be limited to: Federal agencies or programs, including those distributed through state, local, non-profit, and private sector entities; state and municipal governments; major employer firms; chambers of commerce and other local economic development organizations; financial institutions; and community-based organizations. Business Centers must develop, cultivate, and maintain a network of strategic partnerships that foster access by MBEs to economic markets, capital, contracts, or other resources that facilitate their

growth. As part of their network, Business Centers are required by law to establish or continue a referral relationship with at least one community-based organization. A community-based organization is a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community; and provides educational or related services to individuals in the community.

Note: The Business Center must have at least one referral organization with a physical presence in the same state where the Business Center is located.

Business Centers are expected to provide one-on-one technical assistance services to MBEs to support the broad goals of Business Development, Capacity Building and Navigation. They also should ensure that they are developing targeted programming and services specific to the needs of the MBEs in the Center's service area. A Business Center should therefore have a sophisticated knowledge of the needs of targeted MBEs and a plan for how the Business Center will provide programming and services to meet those needs.

For example: A Business Center may target services to construction firms seeking to scale operations. The Business Center might propose to focus business development services on state and local procurement opportunities, and provide technical assistance focused on bonding. Alternatively, a Business Center may target services to local MBEs in the service sector and may target technical assistance to operations and workforce development.

Performance Measures and Goals

MBDA will measure each Business Center's performance. MBDA has defined performance measures and minimum numerical goals that it expects each Business Center to meet. These goals are listed below. Because the awards are for three years and 10 months, the periods for achieving and reporting on the goals will begin with a 10-month period and then shift to an annual period.

Applicants should develop workplans that allow them to achieve and report on these minimum performance goals. Applicants may propose alternative numerical goals within each of the performance measures below, but any deviation below the numerical targets set below requires justification. MBDA is more likely to permit a deviation if it is grounded in facts and data about the specific needs of the MBEs in the region the applicant proposes to serve.

While applicants may propose different numerical targets for a given performance measure, applicants may not propose different measures. Section VII.B.(c).3 provides more detail on the process for proposing alternative numerical goals. Appendix A defines each performance measure.

Measures & minimum goals:

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Fort Worth Division

JEFFREY NUZIARD, et al. Case No.
4:23-CV-00278-P
Plaintiffs
vs. District Judge
MINORITY BUSINESS DEVELOPMENT Mark T. Pittman
AGENCY, et al.

Defendants

_____/

The Zoom teleconferenced deposition of
MATTHEW PIPER was held on Wednesday, October 4,
2023, commencing at 9:34 A.M., at virtual location
before Louisa B. McIntire-Brooks, Notary Public.

Job No. CS6114833

REPORTED BY: Louisa B. McIntire-Brooks

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INDEX

Deposition of: Matthew Piper

October 4, 2023

Examination by:

Page:

Mr. Jenkins

5

Exhibit No.

Marked:

Exhibit 1 MBDA 1 Notice of oral deposition

5

Exhibit 2 Senator Baldwin cuts ribbon

46

Exhibit 3 Definitions

52

STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the witness may be remotely sworn.

PROCEEDINGS

Whereupon,

MATTHEW PIPER,

called as a witness, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

MR. JENKINS: I'm Vendarryl Jenkins. I'm an attorney with the Department of Justice.

MR. REESE: Good morning. This is David Reese also with the Department of Justice.

MR. WOOLLEY: Good morning. Chris Woolley for the Department of Justice.

MS. SODERSTROM: Sandra Soderstrom from the Department of Commerce.

MS. SHARMA: This is Sapna Sharma from the Department of Commerce.

MR. LENNINGTON: This is Dan Lennington,

1 A. Yes.

2 Q. Okay. Please go ahead and describe what
3 you discussed during that interview.

4 A. We discussed the fact that I feel my civil
5 rights are being violated by the MBDA.

6 Q. Did you speak to why you thought your
7 rights were being violated?

8 A. Yes.

9 Q. Could you tell me why you feel that your
10 rights are being violated?

11 A. Yes.

12 Q. Okay. I'm just going to remind you, this
13 will go a lot quicker if you answer the question that I
14 ask as fully and completely as possible. There's been
15 several times now where I followed up with please go
16 ahead and tell me. So if I ask a question, I want the
17 answer versus just a yes. So, will you tell me why you
18 felt your civil rights were violated?

19 A. Yes. It's my understanding in America that
20 all people are created equal and when I go to the MBDA
21 websites, I see that the government is providing

1 services to people, but not to people like me.

2 Q. Do you know Mr. Christian Bruckner?

3 A. No.

4 Q. Are you familiar with him at all?

5 A. Yes.

6 Q. Could you tell me how you became familiar
7 with Mr. Christian Bruckner?

8 A. I read a story about him online somewhere.

9 Q. Do you recall about the date that you read
10 that story?

11 A. Some time earlier this year.

12 Q. What do you recall about his story?

13 A. I recall that he feels his civil rights are
14 being violated by the MBDA.

15 Q. Just a moment ago you said that you felt --
16 that you visited the website and you felt that services
17 were not being given to you. Did you visit the
18 website, the MBDA, the Wisconsin MBDA website after you
19 read these stories?

20 A. Yes.

21 Q. And were you familiar with the Business

1 Centers before you read these stories?

2 A. Yes.

3 Q. Okay. Thanks. So now in your complaint,
4 you noted that you grew up in extreme poverty. Would
5 you mind telling me a little bit about your upbringing?

6 A. Yes. My mother was divorced from my
7 alcoholic father who refused to pay child support for
8 the five children of which I was the oldest.

9 Q. Would you say these were the reasons for
10 the financial hardship?

11 A. Yes.

12 Q. Is there any other reason for the financial
13 hardship that you experienced in your childhood?

14 A. My mother was unable to work with five
15 young children. So there was no income.

16 Q. How were you able to overcome those
17 circumstances?

18 A. Hard work and determination, education.

19 Q. All right. Can you tell me a little bit
20 about that hard work and determination? What sort of
21 steps did you take?

1 A. My home. Insurance policies. That's it.

2 Q. Is your current business an asset, Piper
3 Architects?

4 A. Yes. I'm not sure how you define asset.
5 But probably.

6 Q. Is the business profitable?

7 A. Almost always.

8 Q. Now, a few questions for you with how you
9 identify. How would you identify your gender?

10 A. I'm sorry?

11 Q. How would you identify your gender?

12 A. I am a man.

13 Q. What race do you identify as?

14 A. Caucasian.

15 Q. When you say Caucasian, do you mean white?

16 A. Yes.

17 Q. How do you define your sexuality?

18 A. I am a man.

19 Q. How do you define your sexual preferences?

20 A. I am a man.

21 Q. Would you identify as straight or

1 Q. When did you first decide that you would
2 bring litigation against MBDA?

3 A. Earlier this year.

4 Q. When did the conversation with WILL about
5 MBDA come up with the unrelated matter?

6 MR. LENNINGTON: Objection. Privilege.
7 Don't answer.

8 MR. JENKINS: Again, I'm not asking about
9 the details of the conversation. I'm simply asking
10 about the date of a conversation that has already been
11 mentioned. It has already been said that the
12 conversation occurred. I'm simply asking for the date
13 of that conversation.

14 MR. LENNINGTON: Objection, privilege. You
15 already said -- you are asking him about the date of a
16 conversation that had a certain content and he's not
17 going to answer about conversations and content.

18 MR. JENKINS: Okay. That's fine.

19 Q. When did you first learn about the
20 Wisconsin Business Center?

21 A. When I heard a story on the radio.

1 Q. Do you recall the date?

2 A. I would guess November 2022.

3 Q. When you heard the story, were you
4 interested in services from the Business Centers at
5 that time?

6 A. No.

7 Q. When did you become interested in gaining
8 services or securing services from the Business Center?

9 A. When it became apparent to me that there
10 might be able to fight the injustice of racial
11 discrimination.

12 Q. Now, how did you discover that you were
13 ineligible for services from the Business Centers?

14 A. By going on the websites and looking.

15 Q. Did anyone tell you that you were
16 ineligible?

17 A. No.

18 Q. Which websites did you visit?

19 A. A handful of MBDA sites, the national site,
20 the Wisconsin site. I'm sure the Minnesota site, the
21 Illinois site, the Wisconsin site, the surrounding

1 Q. Those clubs could be social, financial, any
2 form of club.

3 A. I have no recollection of that.

4 Q. So from what you're saying, Mr. Piper, I
5 believe I heard you to say that you do believe that you
6 have experienced economic disadvantages. Is that what
7 I hear you to say?

8 A. Yes.

9 Q. So, are you a minority business owner?

10 A. No.

11 Q. I'd like to refer back to Exhibit 3 which
12 is the definition of a minority business owner there.
13 Have you had an opportunity to refresh yourself on the
14 definition of minority business owner?

15 A. Yes.

16 Q. Do you maintain that you are economically
17 disadvantaged?

18 MR. LENNINGTON: Object to the form.
19 You're not showing him the definition of economically
20 disadvantage.

21 MR. JENKINS: He has stated several times

1 that he is economically disadvantaged. I'm asking does
2 he maintain that same characterization that he has made
3 several times throughout this deposition?

4 MR. LENNINGTON: Object to the form.

5 Q. Mr. Piper, have all of your answers been
6 true and correct thus far?

7 A. To the best of my knowledge and belief,
8 yes.

9 Q. Okay. Do you consider yourself a minority
10 business owner? Or excuse me, let me scratch that
11 question. Are you a minority business owner by
12 definition of this statute?

13 MR. LENNINGTON: Object to the form.

14 Q. If you read this statute, Mr. Piper, do you
15 believe that you are a minority business owner?

16 MR. LENNINGTON: Object to the form.
17 Counselor is not showing him the statute. Counsel is
18 showing him one portion of one definition.

19 Q. By the definition of minority business
20 enterprise that I have here as Exhibit 3, do you
21 believe that you are a minority business owner?

1 MR. LENNINGTON: Objection. This is not
2 the complete definition of minority business
3 enterprise.

4 Q. Mr. Piper, you may still answer the
5 question.

6 A. Sorry. Can you repeat it one more time?

7 Q. Sure. Here we have a definition of a
8 minority business owner. Are you a minority business
9 owner by the definition that you see here?

10 MR. LENNINGTON: Same objection to the form
11 and this is not about minority business owners. This
12 is minority business enterprise. And this is only a
13 portion of the definition and it does not include the
14 definition of socially or economically disadvantaged or
15 the presumptions that are all in other statutes.

16 MR. JENKINS: That's fine.

17 Q. Mr. Piper, can you please answer the
18 question?

19 A. I do not believe so.

20 Q. You do not believe that you are a socially
21 disadvantaged person?

1 MR. LENNINGTON: Object to the form.

2 MR. JENKINS: That's fine.

3 Q. Mr. Piper, you can answer.

4 A. Not at this time.

5 Q. You do not believe that you are an

6 economically disadvantaged person?

7 MR. LENNINGTON: Object to the form. Legal

8 conclusion.

9 Q. Mr. Piper, do you believe that you are

10 economically disadvantaged?

11 MR. LENNINGTON: Same objection. You can

12 answer if you know the answer, Matt.

13 A. Not at this time.

14 Q. Okay. So you are not. I have heard you
15 say, and I just want to be clear, you are not socially
16 or economically disadvantaged; is that correct?

17 MR. LENNINGTON: Objection, form, asked and
18 answered, vague, legal terms.

19 Q. Okay. Great. Let's move on to the
20 application to the Business Centers that you made. Did
21 you visit the Wisconsin Business Center website before

1 this litigation?

2 A. Yes.

3 Q. Do you remember the date?

4 A. No.

5 Q. How did you apply for services from the
6 Business Center?

7 A. I did not.

8 Q. Okay. So did you ever submit an intake
9 form to the Wisconsin Business Center?

10 A. No.

11 Q. Did you ever call the Business Center?

12 A. No.

13 Q. The Wisconsin Business Center? Did you
14 ever e-mail the Wisconsin Business Center?

15 A. No.

16 Q. Did you ever reach out to any other
17 Business Centers?

18 A. No.

19 Q. Did you ever confirm with anyone that you
20 were ineligible for services from the Wisconsin
21 Business Center?

1 A. Yes.

2 Q. How did you confirm that?

3 A. Conversation.

4 Q. With who?

5 A. My attorneys.

6 Q. When you say your attorneys, you mean your
7 attorneys at WILL?

8 A. Correct.

9 Q. When did you confirm that you were
10 ineligible?

11 A. Earlier this year.

12 Q. Was that prior to the date that you visited
13 the Wisconsin website?

14 A. Can you repeat the question? I'm sorry.

15 Q. Sure. Was the date that you confirmed you
16 were ineligible prior to the date that you visited the
17 Wisconsin Business Center website?

18 A. No.

19 Q. So you visited the website first?

20 A. Correct.

21 Q. When you visited the website, you did not

1 know that you were ineligible at the time?

2 A. I suspected I was.

3 Q. But at that time, you did not attempt to
4 apply?

5 A. Correct.

6 Q. At that time, you did not know that you
7 were -- did you know for a fact you were ineligible?

8 MR. LENNINGTON: Object to the form.

9 Q. At that time, had you confirmed that you
10 were ineligible?

11 MR. LENNINGTON: Object to the form.

12 A. I saw enough on the website to know I
13 wasn't eligible.

14 Q. So when you say you saw enough on the
15 website, did you make an assumption that you were
16 ineligible?

17 A. I wouldn't say an assumption.

18 Q. How would you characterize it?

19 A. I made an objective evaluation that I
20 wasn't welcome here based on the color of my skin.

21 Q. Then you later confirmed that with your

1 attorneys?

2 A. Correct.

3 Q. Is that correct? Okay. Let's talk about
4 if you had applied to the Wisconsin Business Center.
5 Could you describe the sort of technical assistance
6 from the Wisconsin Business Center that you could have
7 benefited from?

8 MR. LENNINGTON: Object to the form.

9 Q. Could you describe the sort of technical
10 assistance you were seeking from the Wisconsin Business
11 Center?

12 A. From what I saw on the website, it just
13 looked like a bunch of word salad to me. I assume the
14 way to find out what they really had to offer was to
15 sit down and have them open up the -- open up access to
16 these things.

17 Q. So was there a specific service that you
18 saw on the website that you thought your business could
19 benefit from?

20 A. Access to contracts was one.

21 Q. What sort of contracts could the Wisconsin

1 business development ideas and efficiency ideas. Yeah,
2 there are all kinds of things. The primary thing was
3 access to contracts.

4 Q. Okay. All right. What type of contracts
5 were you looking for? I know you said construction,
6 but could you tell me about the size?

7 A. I have 30 years of experience. I am fully
8 licensed by the state to do any kind of building. The
9 limitations are my manpower and the number of hours I'm
10 willing to work. So, I was interested in seeing if
11 there was any good contracts that would work with my
12 business approach.

13 Q. Okay. All right. Let's talk about your
14 business. You have been in business for eight years;
15 is that correct?

16 A. No, I started my own business in 2003.

17 Q. Okay. Sorry. Let me specify. How long
18 have you owned and operated Piper Architects?

19 A. Very good. Eight years. Yes.

20 Q. Which is quite impressive considering most
21 businesses fail after the first year. So

1 Architects. Has business gotten better over the years
2 at Piper Architects?

3 A. Yes.

4 Q. Have you considered hiring additional
5 employees?

6 A. No.

7 Q. Has annual revenue of Piper Architects
8 increased since the first year?

9 A. Yes.

10 Q. What would you estimate your revenue was
11 during the first year of operation of Piper Architects?

12 A. Zero.

13 Q. What steps did you take to grow your
14 business?

15 A. Started reaching out to people.

16 Q. You found that people were receptive?

17 A. Yes.

18 Q. Could you tell me what the revenue of Piper
19 Architects is now?

20 A. Last year --

21 Q. Last year, yup. Exactly.

1 average contract price for yourself?

2 A. The average contract price or the average
3 fees per contract?

4 Q. Average fees per contract.

5 A. I do a lot of little projects. It's about
6 -- the average is \$5,000 per contract.

7 Q. About how many residential projects would
8 you say you have completed?

9 A. Hundreds.

10 Q. With Piper Architects?

11 A. Dozens.

12 Q. Dozens. Then we've talked about some of
13 them, but can you describe some of the commercial
14 projects you've completed?

15 A. As Piper Architects?

16 Q. Yes, as Piper Architects.

17 A. There's those two I already mentioned.

18 Then there's a rage room up in Green Bay. That might
19 be it for the commercial projects.

20 Q. I'm sorry. You said a rage room?

21 A. A rage room.

1 Q. Awesome. Thank you so much for that.
2 Let's see here. So you told us before that you work
3 alone at Piper Architects; is that correct?

4 A. Correct.

5 Q. Has that created any limitations to the
6 size of projects that you're able to complete?

7 A. Yes.

8 Q. Could you describe some of those
9 limitations for me?

10 A. Well, there's only so much work I can do as
11 a single person. And I don't want to take on
12 additional employees. So it limits -- there's only so
13 many hours in the day. It's all based on service hours
14 and depending on how full my schedule is, I determine
15 if I can take on additional workload or not.

16 Q. Have you ever had to turn down potential
17 projects because of those limitations?

18 A. Yes.

19 Q. Tell me about some of the times you have
20 had to turn down projects.

21 A. If I'm too busy and someone needs something

1 concluded today and just give you an opportunity if you
2 wanted something else, or if you had something else to
3 say.

4 THE WITNESS: Thank you. I don't think I
5 have any additional comments.

6 MR. JENKINS: All right. Thank you,
7 everyone. It's been a pleasure to meet you, Mr. Piper,
8 and engage with you today. Thank you so much for
9 taking the time to talk to us and give us your honest
10 answers. We really, really appreciate it. So we can
11 get to the bottom of this. Dan and Cara, thank you so
12 much for your time as always. We'll sign off for now
13 and we'll see you guys tomorrow.

14 MR. LENNINGTON: All right. Just to be
15 clear, this deposition is adjourned then; right?

16 MR. JENKINS: Yes. We're all done.

17 (Deposition concluded at 12:35 p.m.)
18
19
20
21

1 State of Maryland

2 City of Baltimore, to wit:

3 I, Louisa B. McIntire-Brooks, a Notary
4 Public of the State of Maryland, County of Anne
5 Arundel, do hereby certify that the within-named
6 witness personally appeared before me at the time
7 and place herein set out, and after having been duly
8 sworn by me, according to law, was examined by
9 counsel.

10 I further certify that the examination
11 was recorded stenographically by me and this
12 transcript is a true record of the proceedings.

13 I further certify that I am not of
14 counsel to any of the parties, nor in any way
15 interested in the outcome of this action.

16 As witness my hand and notarial seal
17 this 11th day of October, 2023.

18 
19

Louisa B. McIntire-Brooks

20 Notary Public

My Commission Expires:

21 November 13, 2023

01.20.2023

Senator Baldwin Cuts Ribbon on Wisconsin MBDA Business Center to Support Minority-Owned Businesses

Baldwin helped bring home Wisconsin's first MBDA Business Center in the bipartisan Infrastructure Investment and Jobs Act

MILWAUKEE – Today, U.S. Senator Tammy Baldwin (D-WI) joined Under Secretary of Commerce for Minority Business Development Donald R. Cravins, Jr. in Milwaukee for a ribbon cutting at Wisconsin's new Minority Business Development Agency (MBDA) Business Center.

In September, the U.S. Department of Commerce Minority Business Development Agency (MBDA) awarded the Wisconsin North Central Minority Supplier Development Council (NCMSDC) a 4-year federal grant totaling \$1.61 million through the MBDA's Business Center Program to operate Wisconsin's first Business Center to assist minority-owned business. MBDA Business Centers provide high quality, technical assistance to Minority Business Enterprises (MBEs) – including counseling and mentoring, assisting with access to capital and contracts, and supporting job creation and retention.

"Starting a business is a challenge for every entrepreneur. But too often, our minority entrepreneurs face additional obstacles to accessing capital, contracts and markets," **said Senator Baldwin**. "By investing in expanded access to the MBDA's Business Center Program, we can build a stronger and more diverse small business economy in Wisconsin."

"To give Wisconsin's minority-owned businesses the access they need to succeed, we need to meet people where they are," **said Under Secretary Cravins, Jr.** "The greatest obstacle facing minority-owned businesses is access: access to capital, access to contracts, and access to markets. Expanding MBDA's national network of business centers is critical to breaking down those barriers. The North Central Minority Supplier Development Council understands the unique challenges Wisconsin businesses and entrepreneurs of color face. We are ecstatic they will be operating the state's first MBDA business center, not only to strengthen Wisconsin businesses, but to further MBDA's evolution as a leader for America's 9.7 million minority-owned businesses. We are proud Wisconsin will now have an MBDA business center to call their own."

"There is untapped human and economic potential in Milwaukee, and I want our local businesses, including minority-owned businesses, to find opportunities. This Minority Business Development Center will certainly help," **said Milwaukee Mayor Cavalier Johnson**. "I appreciate the work of the Minority Business Development Agency and Senator Tammy Baldwin's efforts to make sure Wisconsin's businesses have the support they need to grow and add jobs here."

"The Wisconsin Economic Development Corporation is proud to support the Minority Business Development Center," **said Missy Hughes, secretary and CEO of the Wisconsin Economic Development Corporation (WEDC)**. "As WEDC continues to build an economy that works for everyone, we realize that diverse businesses can have big impacts in our communities. This center is another resource to help these small businesses thrive."

Senator Baldwin worked to include the bipartisan Minority Business Development Act of 2021 as an amendment to the Infrastructure Investment and Jobs Act, making the MBDA permanent and increasing its funding and reach. The goal of the MBDA's Business Center Program is to promote the growth and global competitiveness of America's MBEs. Wisconsin is currently served by offices in Detroit and Chicago.

(B) that establishes the terms by which the recipient described in subparagraph (A) shall operate an MBDA Business Center.

(9) Minority business enterprise

(A) In general

The term “minority business enterprise” means a business enterprise--

(i) that is not less than 51 percent-owned by 1 or more socially or economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by 1 or more socially or economically disadvantaged individuals.

(B) Rule of construction

Nothing in subparagraph (A) may be construed to exclude a business enterprise from qualifying as a “minority business enterprise” under that subparagraph because of--

(i) the status of the business enterprise as a for-profit or not-for-profit enterprise; or

(ii) the annual revenue of the business enterprise.

(10) Native entity

The term “Native entity” means--

(A) a Tribal Government;

(B) an Alaska Native village or Regional or Village Corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(C) a Native Hawaiian organization, as that term is defined in section 7517 of Title 20;

(D) the Department of Hawaiian Home Lands; and

(E) the Office of Hawaiian Affairs.

(11) Private sector entity

**Exhibit
Piper 0003
10/4/2023**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JEFFREY NUZIARD, *et al.*,

Plaintiff,

v.

MINORITY BUSINESS DEVELOPMENT
AGENCY, *et al.*,

Defendants.

Case No. 4:23-cv-00278-P

District Judge Mark T. Pittman

DECLARATION OF BRANDON ADAMS

I, BRANDON ADAMS, pursuant to 28 U.S.C. § 1746, hereby declare to my actual knowledge:

1. From September 2022 to May 2023, I served as the Project Director for the Wisconsin Business Center funded by the Minority Business Development Agency. From May 2023 to the present, I have served as Administrator for the Wisconsin Business Center.

2. In 2022, after winning a competitive bid process, the North Central Minority Supplier Development Council entered into a cooperative agreement with the Minority Business Development Agency.

3. Under this cooperative agreement the MBDA agreed to provide funding to the North Central Minority Supplier Development Council to operate the Wisconsin Business Center. The North Central Minority Supplier Development Council appointed me as Director of the Wisconsin Business Center.

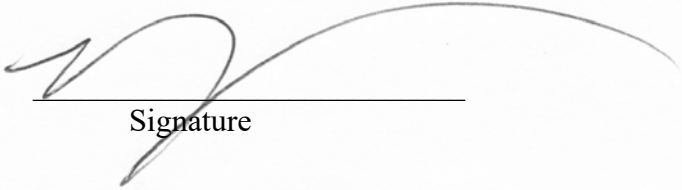
4. Only since May 26, 2023, has the Wisconsin Business Center provided business center services to clients.

5. The Wisconsin Business Center was not up and running and was not accepting or rejecting clients for the Business Center Program until May 26, 2023.

6. The Wisconsin Business Center did not have a public facing phone number or email address until early May 2023.

7. The Wisconsin Business Center did not have an operating, public facing website up and running until May 26, 2023.

I declare under penalty of perjury that the foregoing is true and correct.



Signature

10 / 19/ 23

Date

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JEFFREY NUZIARD,
MATTHEW PIPER, and
CHRISTIAN BRUCKNER,

Plaintiffs,

v.

MINORITY BUSINESS DEVELOPMENT AGENCY,
JOSEPH R. BIDEN, JR.,
GINA M. RAIMONDO, and
DONALD R. CRAVINS, JR.,

Defendants.

VERIFIED COMPLAINT

Plaintiffs allege their complaint against Defendants as follows:

INTRODUCTION

1. The United States Constitution demands equal treatment under the law. The federal government, for example, cannot establish a separate agency dedicated to helping only some races, but not others. Yet that is exactly what Defendants have now done.

2. On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (“Infrastructure Act”), creating the newest federal agency: the Minority Business Development Agency (“MBDA”). This agency is dedicated to helping only certain businesses based on race or ethnicity.

3. Because it relies on racial and ethnic classifications to help some individuals, but not others, the MBDA violates the Constitution's core requirement of equal treatment under the law.

4. Plaintiffs are three small business owners from Texas, Wisconsin, and Florida. They are all interested in finding new ways to grow their business and would value the advice, grants, consulting services, access to programs, and other benefits offered by the MBDA. But that agency won't help them because of their race. Plaintiff Bruckner, for example, emailed the MBDA in Orlando and was told that it could not help him because of his race. The MBDA's statutes, regulations, and website all speak a clear message of discrimination: Defendants refuse to help white business owners like Plaintiffs, as well as many other businesses owned by other non-favored ethnicities from North Africa, the Middle East, and North Asia.

5. Plaintiffs therefore seek an order declaring the MBDA to be unconstitutional and an injunction prohibiting Defendants from discriminating against business owners based on race or ethnicity.

THE PARTIES

6. Plaintiff Jeffrey Nuziard is a white male who lives in Tarrant County, Texas. He is a veteran of the U.S. Armed Forces, and after a 20-year career in investment banking, Dr. Nuziard went back to school and earned a PhD. Dr. Nuziard now owns and operates his own business, Sexual Wellness Centers of Texas, which has two locations and will be expanding to additional locations in the future. Like many businesses, the COVID-19 pandemic impacted Dr. Nuziard's business,

requiring him to delay his grand opening by several months in 2020 and leading to staffing problems. Dr. Nuziard has sought assistance from the federal government in the past but has been denied grants. He is interested in the MBDA because it offers grants, training, access to contracts and networks, financial sourcing assistance, strategic business consulting, and other resources to businesses; however, Dr. Nuziard is not eligible for MBDA assistance because he is white.

7. Plaintiff Matthew Piper is a white male who lives and works in northeast Wisconsin. Mr. Piper grew up in extreme financial poverty in Denver, Colorado, but through hard work and persistence, he eventually graduated with honors from the University of Colorado-Boulder's Environmental Design and Planning College. After college, Mr. Piper became a licensed architect and worked with distinguished design firms on Chicago's "Magnificent Mile" for 12 years. He also founded Piper Zenk Architecture in Denver, which he worked at for about a decade. In 2016, Mr. Piper moved to Wisconsin, where he now owns and operates PIPER Architects. As a small business owner, Mr. Piper could benefit from many of the services offered by the MBDA, but he is ineligible for those services because he is white. Mr. Piper is concerned for himself and the millions of other small business owners in America who are excluded from MBDA services because of the color of their skin.

8. Plaintiff Christian Bruckner is a white male who lives and works in Tampa, Florida. He is an immigrant who came to America in the 1970s to escape the communist regime in Romania. His parents wanted a better life for him in a country

that values constitutional rights and the principle of equality under the law. In 1989, Mr. Bruckner was seriously injured in a car wreck. He is permanently disabled. Mr. Bruckner has over 20 years of experience in contracting and owns Project Management Corporation. He is seeking support to sustain and strengthen his business. Mr. Bruckner is interested in the MBDA because it offers assistance and resources to businesses that seek contracting opportunities.

9. Defendant MBDA is a federal agency within the United States Department of Commerce. *See* 15 U.S.C. § 9502(a).

10. Defendant Joseph R. Biden, Jr. is the President of the United States. Under U.S. Const., art. II, § 3, he must “take care that the laws be faithfully executed,” including the provisions of the Infrastructure Act referenced in this Complaint. Defendant Biden, through one or more White House officials, oversees the implementation of the Infrastructure Act, including efforts to assist minority business enterprises.¹ He is sued in his official capacity.

11. Defendant Gina M. Raimondo is the United States Secretary of Commerce. She is responsible for the agencies within the Department of Commerce, including the MBDA. She is sued in her official capacity.

¹ *See, e.g.*, White House Fact Sheet, *The New Small Business Boom Under the Biden-Harris Administration* (Jan. 25, 2022), available [here](#); White House, Twitter Account (Jan. 10, 2021), available [here](#) (“Our priority will be Black, Latino, Asian, and Native American owned small businesses . . .”).

12. Defendant Donald R. Cravins Jr. is the Under Secretary of Commerce for Minority Business Development. Defendant Cravins is responsible for the administration of the MBDA, including the race and ethnicity eligibility requirements for the MBDA Business Center Program and other MBDA programs. *See* 15 U.S.C. § 9502(b) and 15 C.F.R. pt. 1400. He is sued in his official capacity.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this complaint under 28 U.S.C. §§ 1331 and 2201 and 5 U.S.C. § 702 because this case presents a substantial question of federal law—specifically whether the race and ethnicity eligibility requirements for the MBDA Business Center Program (and other MBDA programs and services), and Defendants’ implementation thereof, violate the guarantees of equal protection under the United States Constitution and 5 U.S.C. § 706.

14. This Court has authority to issue a declaratory judgment, to order injunctive relief, and to award attorneys’ fees and costs and other relief that is necessary and proper pursuant to 28 U.S.C. §§ 2201, 2202, and 2412 and 5 U.S.C. §§ 705 and 706.

15. Venue is appropriate in this district under 28 U.S.C. § 1391(e)(1): A substantial part of the events giving rise to this claim occurred in this district and a substantial part of the property subject to this action is situated in this district because Defendants maintain an active office within this district and provide services and benefits within this district. Additionally, a Plaintiff resides and conducts business in Tarrant County, which is within this district.

FACTUAL BACKGROUND

16. On January 20, 2021, Defendant Biden issued an executive order instructing federal agencies to adopt a “whole-of-government equity agenda” that must, in part, “allocate resources to address the historic failures to invest sufficiently, justly, and equally in underserved communities, as well as individuals from those communities.”² This term, “underserved communities,” includes only the following racial groups: “Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color.” Other racial groups, such as whites, north Africans, Middle Eastern peoples, north Asians, and others who do not identify with the specified racial preferences, are excluded from special treatment. This executive order applies to Defendants Raimondo and Cravins.

17. On November 15, 2021, President Biden signed into law the Infrastructure Act. As part of this legislation, Congress created the MBDA within the Department of Commerce and appropriated \$550 million through fiscal year 2025 for the new agency to run operations and programs and to establish new offices.

18. The MBDA’s mission is to “promote the growth of minority owned businesses,”³ and the Under Secretary must establish “regional offices” for “each of the regions of the United States, as determined by the Under Secretary” and any such other offices as are necessary. 15 U.S.C. § 9502(e)(2)(A).

² Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 20, 2021), available [here](#).

³ U.S. Dept. of Commerce, <https://www.commerce.gov/bureaus-and-offices/mbda>.

19. On February 16, 2023, Defendant Biden issued another executive order “advancing racial equity.”⁴ Pursuant thereto, Defendant Biden, among other things, ordered Defendants Raimondo and Cravins to “create equitable opportunity and advance projects that build community wealth.” Building “community wealth,” however, is limited to “the capacities of underserved communities,” which again is focused on certain racial groups, but not others.

20. Defendant Raimondo has described the MBDA as the “only Federal government agency dedicated solely to supporting minority-owned businesses, enterprises, and entrepreneurs” (emphasis added).⁵

21. Defendant Cravins has explained that the MBDA is “solely dedicated to the growth and global competitiveness of minority-owned businesses” (emphasis added). He has also said, “If you are a minority entrepreneur, MBDA is your agency.”⁶

22. Federal law imposes upon the MBDA several responsibilities to assist minority businesses.

23. The MBDA must provide federal assistance only to minority businesses through “resources relating to management,” “technological and technical assistance,” “financial, legal, and marketing services,” and “services relating to workforce development.” See 15 U.S.C. § 9511(1).

⁴ Exec. Order No. 14091, 88 Fed. Reg. 10825 (Feb. 16, 2023), available [here](#).

⁵ U.S. Dept. of Commerce, *Remarks by U.S. Secretary of Commerce Gina Raimondo* (Sept. 21, 2022), available [here](#).

⁶ Forbes, *A Conversation with the first Under Secretary of Commerce for Minority Business Development* (Feb. 6, 2023), available [here](#).

24. The MBDA must also “promote the position of minority business enterprises in [] local economies” through programs for minority businesses related to procurement, management, technology, law, financing, marketing, and workforce development. *See* 15 U.S.C. § 9512(1).

25. In addition to these general mandates, federal law requires the MBDA to establish a “Business Center Program” to: assist minority businesses in accessing capital, contracts, and grants, and creating and maintaining jobs; “provide counseling and mentoring to minority business enterprises”; and “facilitate the growth of minority business enterprises by promoting trade.” 15 U.S.C. § 9522(1)–(3).

26. Under the Business Center Program, the MBDA must “make Federal assistance awards to eligible entities to operate MBDA Business Centers,” which must then “provide technical assistance and business development services, or specialty services, to minority business enterprises.” 15 U.S.C. § 9523.

27. These MBDA Business Centers may offer a variety of services to minority businesses under the law, including “referral services” and any “programs and services” necessary to accomplish the goals of MBDA (that is, helping minority businesses). 15 U.S.C. § 9524(a)(1).

28. MBDA Business Centers must be operated in accordance with the requirements imposed by the MBDA through written agreements. *See* 15 U.S.C. §§ 9501(8), 9524. Moreover, the MBDA must be “substantially involved” in the operations of MBDA Business Centers. *See* 15 U.S.C. § 9524(h).

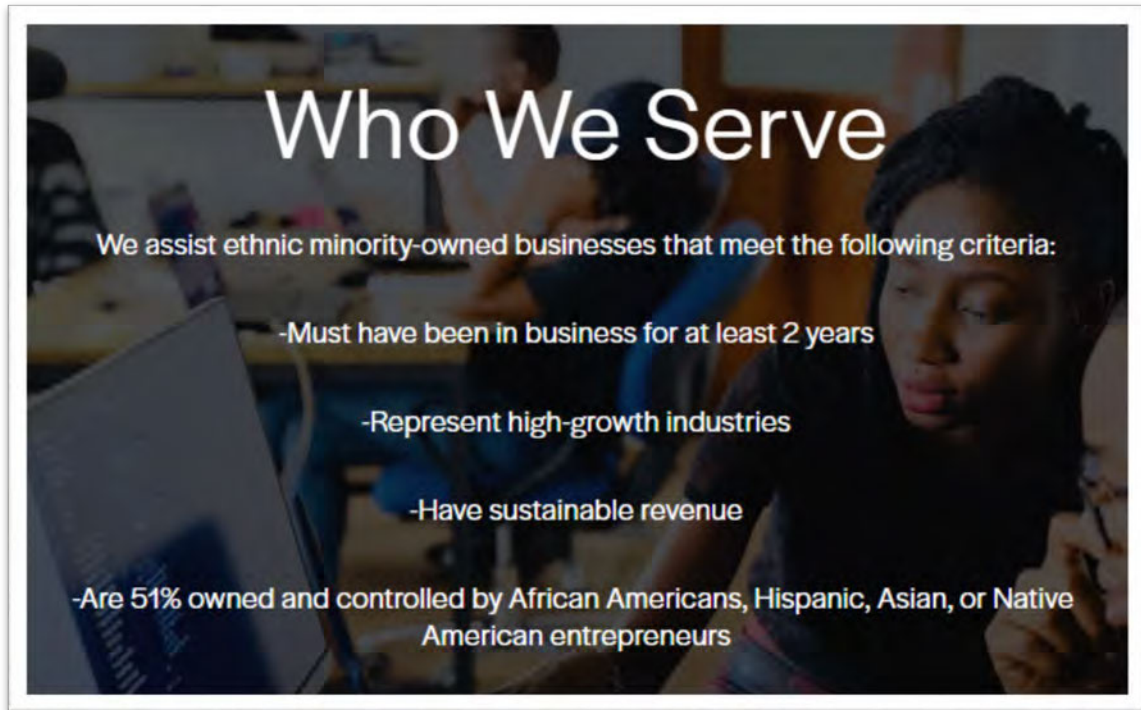
29. Unsurprisingly, MBDA assistance is available only for select minority business enterprises owned by individuals of certain racial or ethnic backgrounds. To qualify as a “minority business enterprise,” a business enterprise must be “not less than 51 percent-owned by 1 or more socially or economically disadvantaged individuals” and its management and daily business operations must be “controlled by 1 or more socially or economically disadvantaged individuals.” 15 U.S.C. § 9501(9)(A). Likewise, the Infrastructure Act adopts similar provisions under the rules at 15 C.F.R. pt. 1400: “In order to be eligible to receive assistance from MBDA funded organizations, a concern must be a minority business enterprise. A minority business enterprise is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons.” 15 C.F.R. § 1400.1(b); 5 U.S.C. § 9501(15)(B).

30. Only individuals belonging to the following racial or ethnic groups are presumed to be “socially or economically disadvantaged individuals” and therefore presumed to own a qualifying minority business: Black or African American, Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or Pacific Islander, 15 U.S.C. § 9501(15); and pursuant to 15 C.F.R. pt. 1400, other racial or ethnic groups (potentially overlapping) to include “Puerto-Ricans,” “Spanish-speaking Americans,” “Eskimos,” “Hasidic Jews,” and “Asian Indians.” 15 C.F.R. § 1400.1. Any other group wishing to obtain status as “socially or economically disadvantaged,” must make an “adequate showing by representatives of the group” to the federal government. *Id.*

31. Business owners, including minorities, who are not members of the government's preferred racial or ethnic groups are presumed ineligible for MBDA Business Center Program services and other MBDA programs, and denied equal access to these services based on their disfavored race or ethnicity. Thus, while it is theoretically possible for a non-minority owned business to receive services, such businesses must make additional showings and overcome obstacles not applicable to minority businesses. These businesses are treated less favorably based on the race of their owner.

32. In or about March 2023, Plaintiff Nuziard visited the local MBDA website for Dallas Fort Worth at www.mbdadfw.com and observed that the agency only serves "ethnic minority-owned businesses" owned and controlled by "African Americans, Hispanic, Asian, or Native American entrepreneurs." Dr. Nuziard is otherwise eligible for assistance, except that he is white.

33. The following screenshot from the Dallas Fort Worth MBDA website lists assistance requirements:



34. On the page for “Contact Us,” the Dallas Fort Worth MBDA office further discriminates, demanding interested businesses to “explain” why they are not “51% owned and controlled by African Americans, Hispanic, Asian, or Native American entrepreneurs,” as depicted below:

Does your business meet all of the following requirements: *

(check all that apply)

☐ Been in business for at least 2 years

☐ Represent high-growth industries

☐ Have sustainable, stable, & consistent revenue

☐ Are 51% owned and controlled by African Americans, Hispanic, Asian, or Native American entrepreneurs

If you did not check all the required boxes above, please explain.

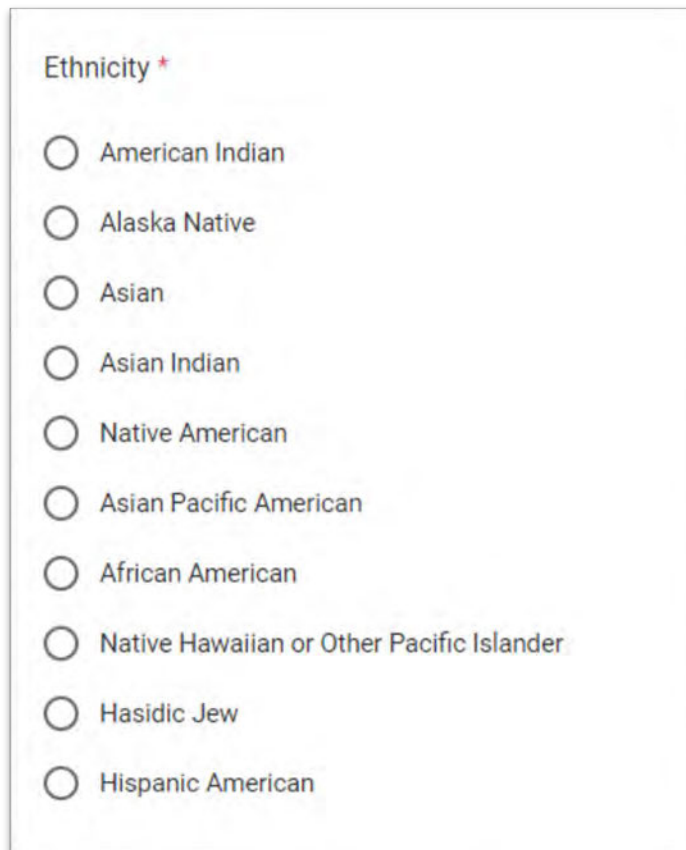
35. On January 20, 2023, United States Senator Tammy Baldwin joined Defendant Cravins in Milwaukee, Wisconsin, for a ribbon cutting ceremony celebrating the new Wisconsin MBDA Business Center. As a Wisconsin business owner, Plaintiff Piper is interested in the services offered by this MBDA office—counseling and mentoring, access to capital and contracts, and support for job creation and retention. But Mr. Piper read about the office and learned that because of his race, he is not eligible for assistance. This MBDA office, like all the others, is focused on “access” for “minority-owned businesses,” as Defendant Cravins declared.⁷

⁷ Office of Senator Baldwin, *Senator Baldwin Cuts Ribbon on Wisconsin MBDA Business Center to Support Minority-Owned Businesses* (Jan. 20, 2023), available [here](#).

36. On or about January 18, 2023, Plaintiff Bruckner accessed the MBDA website for the Orlando MBDA Business Center. Through the website, www.orlandombdacenter.com, Mr. Bruckner learned that the MBDA provides businesses with “access to capital,” “access to contracts,” and “access to markets.” Given his business in government contracting, Mr. Bruckner was particularly interested in the “access to contracts” option.

37. Mr. Bruckner then encountered the message prompt: “see if you qualify for no-cost business development services and trainings from the Orlando MBDA Business Center.” Mr. Bruckner clicked on the link to “complete the intake form.”

38. In reviewing the MBDA client intake form, Mr. Bruckner observed a required question entitled, “Ethnicity.” The inquiry appears as follows:



The image is a screenshot of a web form titled "Ethnicity *". It contains a list of ten options, each preceded by a radio button. The options are: American Indian, Alaska Native, Asian, Asian Indian, Native American, Asian Pacific American, African American, Native Hawaiian or Other Pacific Islander, Hasidic Jew, and Hispanic American.

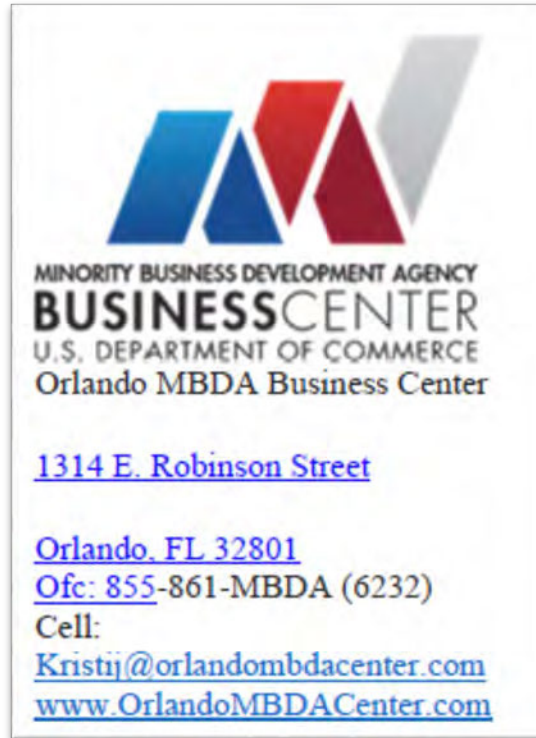
Ethnicity *	
<input type="radio"/>	American Indian
<input type="radio"/>	Alaska Native
<input type="radio"/>	Asian
<input type="radio"/>	Asian Indian
<input type="radio"/>	Native American
<input type="radio"/>	Asian Pacific American
<input type="radio"/>	African American
<input type="radio"/>	Native Hawaiian or Other Pacific Islander
<input type="radio"/>	Hasidic Jew
<input type="radio"/>	Hispanic American

39. Because the form did not include an option for “white” or “Caucasian,” and he is not a Hasidic Jew, Mr. Bruckner contacted the MBDA by email on January 18, 2023, inquiring as follows: “Hello . . . I have a question. I do not see a box for disability, and I don’t meet the other boxes on the intake form. What do I need to do?”

40. In response, Kristi Jones, Office Manager for the Orlando MBDA Business Center wrote, “If you do not identify as one of the ‘Ethnicity’ dropdown options, we can refer you to one of our Strategic Partners for assistance with growing your business.” Ms. Jones then sent another email stating, “Just to clarify, were you referring to the ‘Ethnicity’ dropdown options on the Intake Form?” Mr. Bruckner responded, “Yes.” Ms. Jones then replied:

The MBDA’s focus is to help grow businesses owned by people of ethnic minorities, but we do partner with other companies that can assist all types of businesses. If none of the options in the “Ethnicity” dropdown on the MBDA Intake Form apply, we can refer you to our strategic partner 3D Strategic Management for assistance. I will have them reach out to you for further information. They will be sending you an email from info@3DStrategicManagement.com to follow-up by the end of next week.

41. Ms. Jones’s email signature line included a graphic referencing the MBDA and the Department of Commerce as follows:



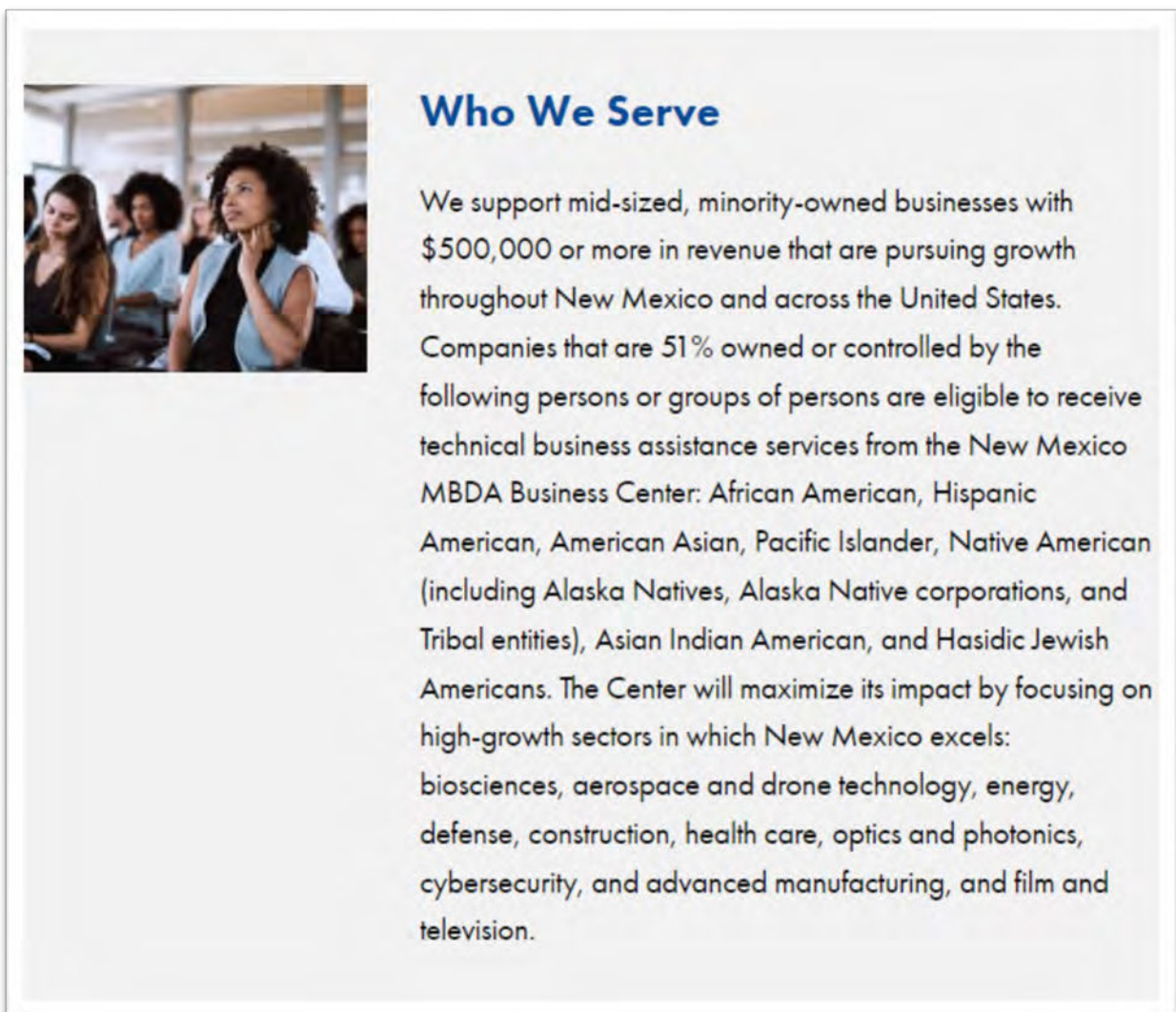
42. Orlando is not the only MBDA office in Florida: a second office is in Miami. But according to its website at www.miamimbdacenter.com, (and in compliance with federal law), the Miami MBDA similarly restricts its assistance to business owners of certain races.

43. These are not the only MBDA Business Centers with racial qualifications. In fact, all MBDA Business Centers must provide resources and other benefits only to minority-owned businesses in compliance with federal law.

44. Most, if not all, MBDA regional centers advertise that they will help businesses across the United States (though they may be located elsewhere), focusing attention on minority-owned businesses. Consequently, in addition to being excluded from MBDA assistance in their home states, Plaintiffs encounter barriers to equal

treatment nationwide due to the racially discriminatory nature of the MBDA's authorizing statutes and MBDA's policies.

45. For example, like many MBDA regional offices, the New Mexico MBDA Business Center claims that it will help businesses "across the United States." But not all businesses. As shown in the screenshot below, the New Mexico MBDA website, <http://www.nmmbda.com/about-us>, explains that it won't help all races:



46. The Sacramento MBDA Business Center similarly requires business owners to “certify” that their business is minority-owned before even receiving any information from the MBDA. Below is a screenshot from its website, www.sacramentombda.com:

Client Interest Form

Step 1 of 3 - Eligibility

33%

The mission of the Sacramento MBDA Business Center is to provide ethnic minority-owned enterprises with the assistance and resources to succeed. We are funded in part by the [Minority Business Development Agency](#), an agency within the U.S. Department of Commerce, and operated by the [California Asian Pacific Chamber of Commerce](#).

ELIGIBILITY

Under this agreement, I certify that the business is owned or controlled (greater than 50 percent) by the following persons or groups of persons that are also U.S. citizens or resident aliens admitted for lawful admission the United States: African Americans, Hispanic-Americans, Asian and Pacific Islander Americans, Native Americans (including, Alaska Natives, Alaska Native Corporations, and Tribal entities), Asian Indians, and Hasidic Jews. See [15 C.F.R. § 1400.1](#).

☐ I have read the above statement, and certify that the business is a minority-owned business enterprise (MBE).

NEXT

47. The Sacramento MBDA Business Center's certification requirement is authorized by 15 U.S.C. § 9524(i) in which the Under Secretary is directed to "issue and publish regulations that establish minimum standards regarding verification of minority business enterprise status" for the MBDA Business Center Program.

48. The Arizona MBDA Business Center, as another example, explains that it only serves members of certain minority racial groups. Below is a screenshot from its website at www.arizonambdacenter.com:

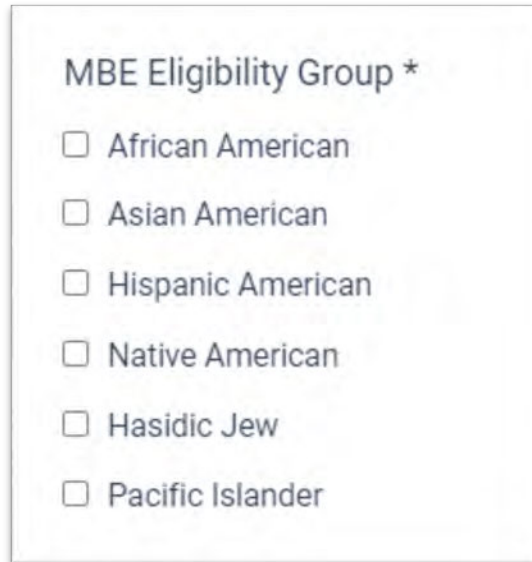
Who We Serve

MBE Service Recipients - Organizations that are owned or controlled by persons or groups of persons who are members of the following demographics are the organizations that are considered MBEs for the purpose of our services:

African-American, Hispanic-American, American Asian and Pacific Islander, Native American (including Alaska Natives, Alaska Native Corporations and Tribal entities), Asian Indian American, and Hasidic Jewish American.

See 15 C.F.R. §§ 1400.1, 1400.2 and Executive Order 11625 (1969).

49. Likewise, to even obtain a consult at the Denver MBDA, a business owner must check one of the boxes on this required intake form, available at www.denvermbdacenter.com:



MBE Eligibility Group *

- ☐ African American
- ☐ Asian American
- ☐ Hispanic American
- ☐ Native American
- ☐ Hasidic Jew
- ☐ Pacific Islander

50. The Georgia MBDA Business Center similarly advertises help only for minority-owned businesses. As depicted below, the website, georgiambdabusinesscenter.org/how-we-help/securing-capital/, makes very clear “who we serve”:



Who We Serve

Our clients are U.S. MBEs owned and operated by African Americans, Asian Americans, Hasidic Jews, Hispanic Americans, Native Americans, and Pacific Islanders.

Generally, we work with companies that have \$500,000 or more in annual sales, but we are open to serve all MBEs. If you are not quite there yet, feel free to contact us for more information on the many resources available for small businesses.

51. In sum, the MBDA does not assist any business owners falling outside the government's preferred racial and ethnic classifications. Plaintiffs are unable to obtain assistance from the MBDA (and MBDA offices providing MBDA programming) because of their race. This is a nationwide injury, stretching beyond the MBDA offices and centers in Texas, Wisconsin, and Florida. It is an injury stemming from the MBDA authorizing statutes and through Defendants' implementation of those statutes.

52. Federal law does not contain any justification for the race or ethnicity discrimination in the statutes governing the MBDA. The Infrastructure Act establishing the MBDA contains no congressional findings or any other evidence indicating that the race and ethnicity classifications are narrowly tailored to support a compelling government interest.

53. Accordingly, Defendants are administering a law authorizing a violation of the equal protection guarantees under the federal Constitution and 5 U.S.C. § 706.

54. Unless Defendants are enjoined, Plaintiffs will lose out on the ability to be considered on equal footing for MBDA Business Center Program services and other services offered by the MBDA. Moreover, Plaintiffs will continue to suffer ongoing harm to their dignity because of the MBDA's unlawful race and ethnicity discrimination under the Infrastructure Act.

COUNT 1 – EQUAL PROTECTION VIOLATION

55. Plaintiffs reallege and incorporate the allegations set forth above as if fully set forth herein.

56. The Constitution forbids discrimination by the federal government against any citizen because of his race or ethnicity. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 216, 223 (1995) (citations omitted).

57. “The liberty protected by the Fifth Amendment’s Due Process Clause contains within it the prohibition against denying to any person the equal protection of the laws.” *United States v. Windsor*, 570 U.S. 744, 774 (2013).

58. “Racial and ethnic distinctions of any sort are inherently suspect and thus call for the most exacting judicial examination.” *Regents of Univ. of California v. Bakke*, 438 U.S. 265, 291 (1978). “Under strict scrutiny, the government has the burden of proving that racial classifications are narrowly tailored measures that further compelling governmental interests.” *Johnson v. California*, 543 U.S. 499, 505 (2005) (citation omitted).

59. As codified at the definitions at 15 U.S.C. § 9501, including §§ 9501(9) and (15), the Infrastructure Act imposes race and ethnicity eligibility requirements for the MBDA Business Center Program and other MBDA programs and services.

60. Defendants are responsible for implementing the MBDA Business Center Program and other MBDA services and are imposing the statutory and regulatory race and ethnicity eligibility requirements.

61. Plaintiffs own and operate small businesses but because of their race, they are ineligible for services.

62. The race and ethnicity eligibility requirements for the MBDA Business Center Program, as defined at 15 U.S.C. § 9501, are unconstitutional because they

violate the equal protection guarantee of the United States Constitution. These race and ethnicity classifications are not narrowly tailored to serve a compelling governmental interest.

63. Plaintiffs have sustained harms to their dignity by visiting MBDA websites (and in one case, emailing directly with MBDA staff) and learning that the United States government, through Defendants' actions, does not consider them equal based on their race. Plaintiffs are further injured by the term "minority" in the name, statutes and regulations relating to MBDA, which refers to certain, preferred racial groups and is a clear indication that Defendants only intend to help business owners of certain racial minorities. This public proclamation of racial preference is an injury to the dignity of each Plaintiff.

64. Therefore, this Court should set aside all racial and ethnic classifications defined in 15 U.S.C. § 9501, and which are implemented through the racial and ethnic preferences found in 15 U.S.C. §§ 9511, 9512, 9522, 9523, and 9524 and/or otherwise applied to the MBDA Business Center Program and other MBDA services.

COUNT 2 – VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

65. Plaintiffs reallege and incorporate the allegations set forth above as if fully set forth herein.

66. Under the Administrative Procedure Act, courts shall "hold unlawful and set aside agency action, findings, and conclusions found to be—contrary to [a] constitutional right." 5 U.S.C. § 706(2)(B).

67. Pursuant to the rule at 15 C.F.R. § 1400.1, the Infrastructure Act imposes race and ethnicity eligibility requirements for the MBDA Business Center Program and other MBDA programs and services.

68. Defendants are responsible for implementing the MBDA Business Center Program and other MBDA services and are imposing the regulatory race and ethnicity eligibility requirements in violation of equal protection guaranteed under the Fifth Amendment's Due Process Clause.

69. These are unlawful racial and ethnic classifications because they are not narrowly tailored measures that support a compelling government interest.

70. Therefore, the Court should set aside this regulation as unconstitutional.

RELIEF REQUESTED

Plaintiffs respectfully request that this Court:

A. Enter a judgment declaring that the Minority Business Development Agency is unconstitutional and in violation of 5 U.S.C. § 706(2)(B) to the extent it provides Business Center Program services or other benefits and services based on race or ethnicity;

B. Enter a preliminary and then permanent injunction prohibiting Defendants from imposing the racial and ethnic classifications defined in 15 U.S.C. § 9501 and implemented in 15 U.S.C. §§ 9511, 9512, 9522, 9523, 9524, and 15 C.F.R. § 1400.1 and/or as otherwise applied to the MBDA Business Center Program and other MBDA programs and services, and additionally enjoining Defendants from using the

term “minority” to advertise or reference their statutorily authorized programs and services;

C. Award Plaintiffs their attorney fees under 28 U.S.C. § 2412 or other relevant laws; and

D. Grant Plaintiffs such other and further relief as the court deems appropriate.

Dated this 20th day of March 2023.

Respectfully submitted,

THE LAW OFFICE OF JASON NASH, P.L.L.C.

s/ Jason C. Nash

Jason C. Nash (Bar No. 24032894)

601 Jameson Street

Weatherford, TX 76086

Telephone: (817) 757-7062

jnash@jasonnashlaw.com

WISCONSIN INSTITUTE FOR
LAW & LIBERTY, INC.

Richard M. Esenberg (*pro hac vice forthcoming*)

Daniel P. Lennington (*pro hac vice forthcoming*)

Cara M. Tolliver (*pro hac vice forthcoming*)

330 East Kilbourn Avenue, Suite 725

Milwaukee, WI 53202

Telephone: (414) 727-9455

Facsimile: (414) 727-6385

Rick@will-law.org

Dan@will-law.org

Cara@will-law.org

Attorneys for Plaintiffs

VERIFICATION

1. I am a plaintiff in this case.
2. I have personal knowledge of myself, my activities, my intentions, and my business, including those set out in the foregoing Verified Complaint. If called upon to testify, I would competently testify as to the matters relevant to me and my claims.
3. I verify under the penalty of perjury under the laws of the United States that the factual statements in this Verified Complaint concerning myself, my activities, my intentions, and my business are true and correct.

Dated: 13 March 2023

Signature



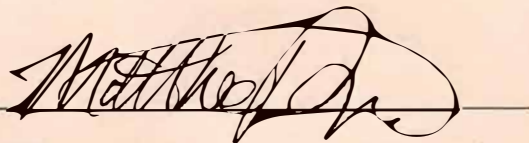
Printed Name: Jeffrey L Nuziard

VERIFICATION

1. I am a plaintiff in this case.
2. I have personal knowledge of myself, my activities, my intentions, and my business, including those set out in the foregoing Verified Complaint. If called upon to testify, I would competently testify as to the matters relevant to me and my claims.
3. I verify under the penalty of perjury under the laws of the United States that the factual statements in this Verified Complaint concerning myself, my activities, my intentions, and my business are true and correct.

Dated: 3/13/23

Signature



Printed Name: MATTHEW PIPER

VERIFICATION

1. I am a plaintiff in this case.
2. I have personal knowledge of myself, my activities, my intentions, and my business, including those set out in the foregoing Verified Complaint. If called upon to testify, I would competently testify as to the matters relevant to me and my claims.
3. I verify under the penalty of perjury under the laws of the United States that the factual statements in this Verified Complaint concerning myself, my activities, my intentions, and my business are true and correct.

Dated: 3-13-2023

Signature



Printed Name: Christian Bruckner

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jeffrey Nuziard, Matthew Piper, and Christian Bruckner

(b) County of Residence of First Listed Plaintiff Tarrant
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jason C. Nash, The Law Office of Jason Nash, P.L.L.C.,
601 Jameson Street, Weatherford, TX 76086,
817-757-7062

DEFENDANTS

Minority Business Development Agency, Joseph R. Biden, Jr., Gina M. Raimondo, and Donald R. Cravins, Jr.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
5 U.S.C. 702

Brief description of cause:

Challenging the constitutionality of race and ethnicity eligibility requirements for the federal MBDA and its Business Center Program.

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/20/2023

SIGNATURE OF ATTORNEY OF RECORD

s/ Jason C. Nash

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MBDA MSJ App. 00083

From: [Jenkins, Vendarryl \(CRT\)](#)
To: [Cara Tolliver](#)
Cc: [Braniff, Andrew \(CRT\)](#); [Woolley, Christopher \(CRT\)](#); [Reese, David \(CRT\)](#); [Jason Nash](#); [Daniel Lennington](#); [Rick; Stoltz, Brian \(USATXN\)](#)
Subject: RE: Application process for Plaintiffs to Business Centers in compliance with Court Order
Date: Friday, October 6, 2023 4:02:31 PM
Attachments: [image001.png](#)
[image002.png](#)

Counsel,

For the purposes of complying with the injunction, in this context, state means only that your clients need to make a positive affirmation that they are socially or economically disadvantaged, or both.

VENDARRYL JENKINS
Trial Attorney
United States Department of Justice
Civil Rights Division
Employment Litigation Section

From: Cara Tolliver <Cara@will-law.org>
Sent: Monday, October 2, 2023 3:47 PM
To: Jenkins, Vendarryl (CRT) <Vendarryl.Jenkins@usdoj.gov>
Cc: Braniff, Andrew (CRT) <Andrew.Braniff@usdoj.gov>; Woolley, Christopher (CRT) <Christopher.Woolley@usdoj.gov>; Reese, David (CRT) <David.Reese@usdoj.gov>; Jason Nash <jnash@jasonnashlaw.com>; Daniel Lennington <Dan@will-law.org>; Rick <Rick@will-law.org>; Stoltz, Brian (USATXN) <BStoltz@usa.doj.gov>
Subject: [EXTERNAL] RE: Application process for Plaintiffs to Business Centers in compliance with Court Order

Counsel,

Thank you for your message. Can you please clarify the requirement you propose for our clients “to state that they are a socially or economically disadvantaged individual”? When you say “state,” does that mean “prove” or to otherwise make some showing?

As you know, African Americans, Hispanics, Native Americans, and certain Asians are “presumed” socially or economically disadvantaged individuals under the MBDA statute and regulations. Our position is that our clients should likewise be afforded this identical presumption and that anything less than identical treatment is a violation of the preliminary injunction.

Cara Tolliver | Associate Counsel
Wisconsin Institute for Law & Liberty

330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202
(414) 727-WILL | Office



From: Jenkins, Vendarryl (CRT) <Vendarryl.Jenkins@usdoj.gov>
Sent: Saturday, September 30, 2023 12:37 PM
To: Cara Tolliver <Cara@will-law.org>
Cc: Braniff, Andrew (CRT) <Andrew.Braniff@usdoj.gov>; Woolley, Christopher (CRT) <Christopher.Woolley@usdoj.gov>; Reese, David (CRT) <David.Reese@usdoj.gov>; Jason Nash <jnash@jasonnashlaw.com>; Daniel Lennington <Dan@will-law.org>; Annalise Ehlenbach <Annalise@will-law.org>; Stoltz, Brian (USATXN) <Brian.Stoltz@usdoj.gov>; Rick <Rick@will-law.org>
Subject: RE: Application process for Plaintiffs to Business Centers in compliance with Court Order

Counsel,

We are writing to follow up on prior communications concerning the process through which Plaintiffs may apply for services from the appropriate Business Center pursuant to the Court's order. Defendants are eager to clarify the process by which Plaintiffs may apply for Business Center services absent any consideration of their race or ethnicity.

We understand that you proposed that Plaintiffs "simply apply via the regular process that every other applicant must utilize, and be assessed according to race-neutral criteria." As a preliminary matter, we would like to clarify that we hoped the process we initially proposed would not impose additional barriers for Plaintiffs. By providing each Plaintiff with the option to directly email their information to the relevant Business Center Director, Defendants sought to ensure a streamlined and speedy process for Plaintiffs, with no consideration of Plaintiffs' race or ethnicity. Emailing the Business Centers is a "regular process" and one of the multiple accepted intake methods.

Business Centers also accept emails through the contact information panel listed on their websites. Additionally, the Business Centers conduct intake via their websites at <https://www.mbdadfw.com/contact-us>, <https://orlandombdacenter.com/contact/>, and <https://wisconsinmbdabusinesscenter.com/contact-us/>.

Through whatever means the Plaintiffs choose to apply, please ensure that the Plaintiffs identify themselves in that communication as a plaintiff in this lawsuit. We have instructed each Business Center to which Plaintiffs may apply that, its decision must not be based on that Plaintiff's race or ethnicity in any way should the Center receive an application.

Once Plaintiffs have contacted the Business Centers indicating an interest in participating in Business Center services, Plaintiffs will be required to state that they are a socially or economically disadvantaged individual to be eligible for services under the MBDA Act. In addition to this statutory requirement, the Plaintiffs will also need to demonstrate any other race neutral criteria that are applicable to all applicants to the individual Business Center for participation. For example, the Fort

Worth Business Center considers race-neutral criteria such as whether a company has been in business for at least 2 years, represents high-growth industries, and has sustainable, stable, and consistent revenue.

To the best of our knowledge, the Business Centers have not received an application or contact from any Plaintiff since the injunction. If we are mistaken, please notify us of when each plaintiff applied for Business Center services.

VENDARRYL JENKINS
Trial Attorney
United States Department of Justice
Civil Rights Division
Employment Litigation Section
150 M Street NE, 9th Floor
Washington, DC 20530
(202) 598-1671
vendarryl.jenkins@usdoj.gov

From: Cara Tolliver <Cara@will-law.org>
Sent: Thursday, July 13, 2023 1:46 PM
To: Jenkins, Vendarryl (CRT) <Vendarryl.Jenkins@usdoj.gov>
Cc: Braniff, Andrew (CRT) <Andrew.Braniff@usdoj.gov>; Woolley, Christopher (CRT) <Christopher.Woolley@usdoj.gov>; Reese, David (CRT) <David.Reese@usdoj.gov>; Jason Nash <jnash@jasonnashlaw.com>; Daniel Lennington <Dan@will-law.org>; Annalise Ehlenbach <Annalise@will-law.org>; Stoltz, Brian (USATXN) <BStoltz@usa.doj.gov>; Rick <Rick@will-law.org>
Subject: [EXTERNAL] RE: Meet and confer re: injunction & settlement

Dear Counsel:

Thank you for your message regarding implementation of the Court's Order, dated June 5.

The suggested proposal is based in a process that would impose race-based hurdles for our clients to demonstrate social or economic disadvantage—burdens that are not imposed on the preferred, designated racial groups. However, herein lies the Equal Protection injury complained of, for which the Court awarded relief in granting Plaintiffs' preliminary injunction to enjoin Defendants from, among other things, "considering or using Plaintiffs' race or ethnicity in determining whether they can receive access to the Center's services and benefits."

Therefore, as an initial matter, please consider that we cannot agree to any proposal that would require Plaintiffs to make additional showings of social or economic disadvantage.

Thank you,

Cara Tolliver | Associate Counsel
Wisconsin Institute for Law & Liberty

330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202
(414) 727-WILL | Office



From: Jenkins, Vendarryl (CRT) <Vendarryl.Jenkins@usdoj.gov>
Sent: Thursday, July 13, 2023 10:40 AM
To: Cara Tolliver <Cara@will-law.org>
Cc: Braniff, Andrew (CRT) <Andrew.Braniff@usdoj.gov>; Woolley, Christopher (CRT) <Christopher.Woolley@usdoj.gov>; Reese, David (CRT) <David.Reese@usdoj.gov>; Jason Nash <jnash@jasonnashlaw.com>; Daniel Lennington <Dan@will-law.org>; Annalise Ehlenbach <Annalise@will-law.org>; Stoltz, Brian (USATXN) <Brian.Stoltz@usdoj.gov>; Rick <Rick@will-law.org>
Subject: Meet and confer re: injunction & settlement

Counsel,

In light of the Court's June 5 Order, Defendants seek to meet and confer over the process for Plaintiffs to apply for services from the Dallas Fort Worth, Orlando, and Wisconsin Business Centers. Attached is a proposal of Defendants' suggested process. Furthermore, Defendants are receptive to an offer of settlement, and will relay Plaintiffs' proposed terms and conditions to our clients post conference. Please acknowledge response and propose a convenient date and time to confer.

1. Application Submission for Plaintiffs:

a. If a plaintiff to this suit (Nuziard, Piper, and/or Bruckner) chooses to seek access to the services of the Dallas Fort Worth, Wisconsin, and/or Orlando Business Centers, the plaintiff will submit an individual application to the Business Center from which he seeks services. Any plaintiff who chooses to apply (hereinafter "applicant") will submit his application via email to the below-listed points of contact for the respective Business Centers:

- Dallas Fort Worth Business Center: Raymond Cervantes, Ray@mbdadallas.com
- Wisconsin Business Center: Heather Noel Olson, heather@wisconsinmbdacenter.com
- Orlando Business Center: Kimberly Rosier Jean-Louis, Kimberly@orlandombdacenter.com

b. Each application will contain a statement that the applicant satisfies the statutory and Center-specific eligibility criteria with an explanation to that effect.

The application will not reference the racial and ethnic classifications defined in 15 U.S.C. § 9501 and implemented in 15 U.S.C. §§ 9511, 9512, 9522, 9523, 9524, and 15 C.F.R. § 1400.1. Each application will also contain contact information for the applicant.

2. Application Review:

a. The Business Center that receives the application will determine whether the applicant can receive access to Business Center services.

b. Specifically, each Business Center will determine whether the applicant meets the regulatory definition of a socially or economically disadvantaged individual, which is defined as:

- “Persons who have been subjected to cultural, racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities” (**race or ethnicity will not be considered, but cultural prejudice can be asserted to qualify**) or
- “Persons whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities because of their identity as a member of a group, without regard to their individual qualities, as compared to others in the same line of business and competitive market area.”

c. Each Business Center will also determine whether the requesting plaintiff’s business meets any additional race-neutral criteria that the Business Center applies to all businesses that submit applications for services (such as type of industry, minimum revenue, time in business, or other applicable criteria).

If a Business Center determines that it needs additional information to make a determination on an application, it will contact the applicant directly, using the contact information in the application. Once an application is deemed complete, the Business Center will as soon as practicable provide a determination on the application in writing to the applicant at the contact information listed in the application.

Best,
VJ

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Fort Worth Division

JEFFREY NUZIARD, et al.

Case No.

4:23-CV-00278-P

Plaintiffs

vs.

District Judge

MINORITY BUSINESS DEVELOPMENT

Mark T. Pittman

AGENCY, et al.

Defendants

_____/

The Zoom teleconferenced deposition of
CHRISTIAN BRUCKNER was held on Thursday, October 5,
2023, commencing at 9:33 A.M., at virtual location
before Louisa B. McIntire-Brooks, Notary Public.

Job No. CS6114879

REPORTED BY: Louisa B. McIntire-Brooks

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFFS:

DANIEL P. LENNINGTON, ESQUIRE

3 CARA M. TOLLIVER, ESQUIRE

4 Wisconsin Institute for Law
& Liberty, Inc.

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7
8 ON BEHALF OF DEPT. OF COMMERCE:

SAPNA SHARMA, ESQUIRE

9 SANDRA SODERSTROM, ESQUIRE

U.S. Department of Commerce

10 Office of General Counsel

1401 Constitution Avenue, NW

11 Washington, DC 20230

Telephone: 202-482-4772

12 ssharma@doc.gov

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13
14 ON BEHALF OF THE DEPT. OF JUSTICE

VENDARRYL JENKINS, ESQUIRE

15 CHRISTOPHER WOOLLEY, ESQUIRE

DAVID REESE, ESQUIRE

16 MILLER FINA, ESQUIRE

United States Department of Justice

17 Civil Rights Division

150 M Street, NE, 9th Floor

18 Washington, DC 20530

Telephone: 202-598-1671

19 vendarryl.jenkins@usdoj.gov

christopher.woolley@usdoj.gov

20 david.reese@usdoj.gov

INDEX

Deposition of: Christian Bruckner

October 5, 2023

Examination by:

Page:

Mr. Reese

5

Exhibit No.

Marked:

Exhibit 4 Notice of deposition

6

Exhibit 5 E-mail

110

Exhibit 6 LinkedIn

130

STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the witness may be remotely sworn.

PROCEEDINGS

Whereupon,

CHRISTIAN BRUCKNER,

called as a witness, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION BY MR. REESE:

Q. Good morning. This is the deposition of Christian Bruckner in case number 4:23-CV-00278, Jeffrey Nuziard, et al versus MBDA, et al. Counsel, if you could, please state your appearances on the record. I'll just go ahead and start.

MR. REESE: I'm David Reese on behalf of the United States with Department of Justice. Government counsel first, if you could.

MR. WOOLLEY: Chris Woolley, Department of Justice.

1 MR. JENKINS: Vendarrly Jenkins, Department
2 of Justice.

3 MS. SODERSTROM: Sandra Soderstrom,
4 Department of Commerce.

5 MS. SHARMA: Sapna Sharma, Department of
6 Commerce.

7 MR. REESE: Counsel for plaintiffs, if you
8 could, just state your appearances on the record.

9 MR. LENNINGTON: This is Dan Lennington.
10 I'm the attorney for Mr. Bruckner and will be defending
11 the deposition.

12 MS. TOLLIVER: Cara Tolliver, attorney for
13 Plaintiff Bruckner.

14 MR. REESE: Counsel all objections except
15 form and privileges I understand are reserved.

16 EXAMINATION BY MR. REESE:

17 Q. Mr. Bruckner, good morning. Good to see
18 you.

19 A. How are you?

20 Q. Good. Please, sir, just state and spell
21 your name for purposes of the record.

1 A. [REDACTED], [REDACTED],
2 [REDACTED]

3 Q. That's in Tampa?

4 A. Yes, sir.

5 Q. Mr. Bruckner, how long have you lived at
6 that address?

7 A. Three years now.

8 Q. Three years?

9 A. Yes, sir.

10 Q. Have you got any plans to move in the next
11 12 months?

12 A. The way housing is and the way the prices
13 are, with a nine year old boy, not too much. No, not
14 at this time, anyway.

15 Q. I got it. Same. Who lives with you there
16 at the [REDACTED] house that you live now?

17 A. My son's mom and my nine year old son,
18 Noah.

19 Q. Let's talk a little bit about your
20 educational background? What is the highest level of
21 formal education that you received, sir?

1 A. Officially a GED. I'm currently a
2 full-time student, going to graduate with my bachelor's
3 degree this December.

4 Q. What are you studying?

5 A. Business administration, acquisitions with
6 a concentration in acquisitions and contracts
7 towards -- geared towards federal contracts.

8 Q. Where are you going to school?

9 A. Strayer University online.

10 Q. You graduate this summer you anticipate?
11 Congratulations.

12 A. This December, yes, sir. Thank you.

13 Q. Have you had any college attendance between
14 high school and now when you're at Strayer?

15 A. No.

16 Q. Any specialized training or certifications?

17 A. No. I mean, I don't, but that's in the
18 plans if that's what you're asking. But, you know, a
19 bachelor's --

20 Q. Yes, sir. Tell me what kind of specialized
21 training you're looking to get after you get your

1 bachelor's.

2 A. I am looking to take my test to become a
3 certified federal contract manager, whether it's
4 private sector or government position.

5 Q. There is a specific occupational
6 certification that you can get for managing federal
7 contracts?

8 A. Yes, sir. Certified Federal Contract
9 Manager, CFCM.

10 Q. All right. We may swing back and talk a
11 little bit about that later on. We'll talk a little
12 bit more just about your background. Mr. Bruckner, is
13 it correct you identify as a white male?

14 A. Yes, sir.

15 Q. Do you identify as a member of any other
16 groups or classifications?

17 A. Do I -- are you asking me if I, my myself,
18 consider myself part of a social group?

19 Q. Yes, sir.

20 A. Yes, I would consider myself as a member of
21 the disability community, yes.

1 Q. After you moved to Florida, what did you do
2 then?

3 A. Well, I went to Florida because my dad got
4 diagnosed with dementia and my parents had moved from
5 Texas to Florida. My dad got diagnosed with the first
6 phase of dementia. So I kind of felt that my mom
7 needed some help. Believe it or not, it's a nasty
8 disease, you know. So I kind of, you know, my son and
9 my son's mom, we just all picked up and decided to go
10 help my mom take care of my dad. So for the first six
11 months, really didn't do anything besides that. Then I
12 formed a commercial company for obviously seeing how
13 the federal contracts were going, when they were taking
14 bids. As long as I'm stuck in a small business
15 category competing against, again, like I mentioned,
16 companies with 500 to a thousand employees and
17 \$10 million in sales, there just really weren't bids
18 for someone of my financial condition and probably many
19 others, you know, that are micro businesses. So, I
20 wanted to try the commercial area out. So I started at
21 -- tried to start a brake replacement -- mobile brake

1 replacement service. Which in theory probably would be
2 a good business. I'm sure there's probably a lot of
3 people that would love to have someone come out to
4 their house and do their brakes. Problem is, around
5 that time, what, late '19, '20, Covid was just starting
6 to come out. So wrong time to, you know, to get that
7 going. And Florida's vehicle insurance is very high
8 here, you know, so with no income, no revenue being
9 generated, you know, from that, eventually I closed it
10 down in 2021, I believe, and went back to what I know,
11 you know, it's -- I've always been involved with
12 federal contracts. You know, it's what I learned.
13 It's what I do. So going to the commercial market
14 where it's very unorganized, you know, no quality
15 assurance, I just said, no, I don't want to do that. I
16 want to go and try and, you know -- because of my
17 disability and remote jobs are very important for
18 people like myself, I said, you know, I saw a
19 requirement that the Department of Defense was coming
20 out with cyber security requirements. No longer could
21 subcontractors not be certified to get drawings to work

1 on goods and services -- goods primarily. So, I
2 thought, hey, I am going to get back into federal
3 contracts because I think maybe, you know, there might
4 be some opportunities there with the new cyber security
5 requirements where you have to have a cyber -- a system
6 security plan basically to even do business with the
7 Department of Defense. So, I started Project
8 Management Corporation. And then --

9 Q. Let me stop you right there, Mr. Bruckner.
10 Just for housekeeping purposes, the name of your mobile
11 brake replacement company, what was that called?

12 A. Car Squad.

13 Q. Tire Squad?

14 A. Car Squad.

15 Q. Then you started PMC after that?

16 A. Yes, sir.

17 Q. How would you describe, to the best of your
18 recollection, your gross income on an annual basis
19 since 2021, since you started PMC?

20 A. Repeat that last part. You were breaking
21 up. The annual income?

1 Q. Yes, sir, your annual gross income,
2 adjusted gross income.

3 A. Personally?

4 Q. Yes, sir.

5 A. Nonexistent. I'm a full-time student.

6 Q. Again, these are due diligence questions
7 and they may seem a little silly.

8 A. That's okay.

9 Q. Do you have any stocks, any bonds, any
10 assets?

11 A. No, sir.

12 Q. No IRA or anything like that sitting out
13 there?

14 A. No, sir.

15 Q. A quick question with respect to your
16 disability and then I want to talk about your
17 residential history although we mostly covered it.
18 Have you received a rating as permanently disabled?

19 A. From who?

20 Q. From a doctor, from any government agency?

21 A. Yes. From a doctor, yes.

1 (A discussion was held off the record.)

2 Q. Mr. Bruckner, quick question, I forgot to
3 this ask this. It's a pretty straightforward question
4 and I recalled when we were on break, a colleague
5 reminded me. How long have you been a student at
6 Strayer?

7 A. Four years. This will be my -- well, since
8 2019.

9 Q. You are in the home stretch?

10 A. Yes, sir. Two more months left.

11 Q. So I'd like to talk about PMC a little bit
12 and I think this probably will be pretty quick and then
13 we'll talk about I guess the MBDA and your contact with
14 the MBDA and so we're moving along pretty well. We
15 represented earlier to counsel that we would be able to
16 have you wrapped up by 2:00 and I think, barring some
17 unforeseen circumstances, I think we are definitely on
18 our way to meeting that deadline. So let's talk about
19 PMC. Your business is called Project Management
20 Corporation. That's your current business?

21 A. Yes, sir.

1 Q. It was in incorporated, as I understand it,
2 on March 25 of 2021?

3 A. I believe so. I think -- yeah. Somewhere
4 around that date range, yes.

5 Q. But I guess just for big picture purposes,
6 you know it was incorporated in 2021, that year?

7 A. Yes, sir.

8 Q. And it was incorporated in what state?

9 A. State of Florida.

10 Q. I think you already talked about this, so
11 just briefly, why did you start PMC?

12 A. I wanted to go back to what I had been
13 doing my whole career which was a prime contractor, a
14 federal contractor. It's kind of hard to start a new
15 career at 51. So you kind of want to stick with what
16 you, you know, think you're good at, hope you're good
17 at and go from there.

18 Q. Did anybody help you set up PMC?

19 A. No, sir.

20 Q. What start-up costs did you have in setting
21 PMC up?

1 question. Did you retain any consultants as you
2 started up PMC?

3 A. No, sir.

4 Q. Again, I think we know the answer to this,
5 did you apply for any loans to start the business?

6 A. No, sir.

7 Q. Did you receive any government grants or
8 loans to starts the business?

9 A. No, sir.

10 Q. Do you currently have any lines of credit
11 anywhere, any sources of credit?

12 A. Nothing.

13 Q. Do you presently have any working capital?

14 A. No, sir. Like I said, the only working
15 capital that we would use on contracts are, you know,
16 tax refunds that my son's mom gets. Stuff like that.
17 Just savings. Get \$200 or whatever. We just save it.
18 It's not much, but it's enough to -- for a micro
19 business like myself who's getting started, especially
20 with federal contracts because it's so competitive, to
21 at least sit under the simplified acquisition

1 threshold, micro purchases basically, under \$10,000
2 contracts, to get some of those and build and then you
3 can go to the next block, you know. Might I require
4 financing at some point? Sure. But I'm just not at
5 that level yet, no.

6 Q. Cross that bridge when you get to it?

7 A. Yeah or get a contract that required me to
8 take it to a bank and say, hey, I have this federal
9 contract, you know, I need a loan to do the job. But I
10 haven't got to that point yet.

11 Q. Just for purposes of the record, can you
12 just briefly describe, you know, in a paragraph or so,
13 what it is PMC does?

14 A. My background is in manufacturing. My
15 father was a manufacturing engineer who manufactured
16 brake shoes for the military trucks. So I kind of
17 stuck to manufacturing those types of items that
18 included rubber, plastic, steel. And then my degree is
19 tailored towards acquisition and contract management.
20 However, for my electives, I have taken three project
21 management courses. So, it made me realize that that's

1 kind of what I do, project management. Doesn't matter
2 if it's an item that requires steel or if it's a
3 service contract or, you know, any type of managing
4 project is kind of what my vision was for Project
5 Management Corporation, just to manage the projects.
6 Whatever they are. You know, assembling resources, you
7 know, subcontractors, all that good stuff. So, for
8 example, today I can make a bushing sleeve, you know,
9 like I did when I worked with the service disabled
10 small business. One day we made valves that go on
11 trucks. The next day we manufactured shafts that went
12 on Ohio class 11 submarine, nuclear submarine. Five
13 months later we would do backpacks for the forestry
14 service. And that was me opening them up to some
15 diversification as managing projects.

16 Q. Are you happy with how PMC is doing up to
17 this point?

18 A. No.

19 Q. Tell me about that if you could.

20 A. Well, as I mentioned earlier, with no
21 disability business enterprise program for myself, for

1 starters, it's just even me being a white male who
2 doesn't meet any economic standards of, you know,
3 having sufficient income or assets to go out and get
4 loans, I'm thrown into the general small business
5 category where you are dealing with, again, companies
6 with 500 to a thousand employees depending on what the
7 basics code is. They could have 12 to \$15 million in
8 sales a year and I can't compete with those people. So
9 that's why I'm answering no, that it's very hard to,
10 you know, to be happy with that. Now, last year at the
11 end of 2022, because of my zone with the hurricane, I
12 was classified under the SBA HUBZone program and the
13 three contracts that I did get towards the end of last
14 year, they were all HUBZone contracts. And this past
15 July, the SBA HUB -- the new redesigned SBA HUBZone map
16 doesn't include my address anymore. So the contracts
17 went from three to looking at more and bidding on more
18 to going back to where I started at square one without
19 any program for me. Which is --

20 Q. So the HUBZone it's a geographically
21 defined area. It sounds like that geographically

1 defined area has kind of changed over time?

2 A. For hurricanes. Other zip codes that they
3 have, they don't change. It's been like that for a
4 long time.

5 Q. In those three contracts that you got for
6 HUBZone, can you just tell us briefly what they were?

7 A. All three were for the defense -- the DLA.
8 One went to Columbus which is Active Devices Unit, one
9 went to DLA Aviation which handles all aircraft stuff.
10 Two of the contracts, they were awarded on approved
11 source meaning that I would have to buy from a Lockheed
12 or a Boeing or one of those distributors and that's
13 what I did. So obviously there wasn't very much money
14 in that. The last contract was actually a manufactured
15 or printed contract meaning I would have to order
16 materials and stuff like that. It wasn't a big
17 contract. It was like \$5,800. So those are the three
18 that I've gotten. I have bid on other stuff that I
19 didn't get, but that's happens, you know, when you're
20 competing against these -- I guess what I am trying to
21 say is I don't believe that a company with 500

1 employees and \$10 million in sales classified as a
2 small business should be bidding on small items that
3 are meant for economically disadvantaged people or
4 businesses is what I am saying. I say economically
5 disadvantaged going on your financial condition.

6 Q. It has to. In terms of these contracts,
7 the contract value, for the one that went to Columbus
8 to the Active Device Unit, what was the approximate
9 value of that contract? Just to the best of your
10 recollection.

11 A. I don't remember. I know one of them -- I
12 can't remember which it was. Again, I don't memorize
13 them, I just keep files of them. I have to keep
14 records and stuff like that. I know that one was
15 5,800. One was a \$20 contract. One was maybe three or
16 \$400. Those are contracts -- the first two were
17 contracts to establish history, you know. That's one
18 of the main problems facing micro businesses and people
19 that start with federal contracting is they check your
20 history and if you don't have any history of supplying
21 anything, you're probably not going to have a good

1 chance of getting the contract, you know. So that's
2 the system they use. So I would say probably in total,
3 6,000 to \$6,200 would be my gross sales, you know, that
4 we're looking at.

5 Q. Just based on your interrogatory responses
6 and what we have talked about, you are PMC's sole
7 officer and the sole employee right now?

8 A. Yes, sir.

9 Q. Right now, because you mentioned you're
10 back to square one, you're probably not drawing any
11 kind of a salary at the moment from PMC?

12 A. No, sir. No, sir.

13 Q. Principal place of business is in Tampa?

14 A. Yes, sir.

15 Q. These are just due diligence background
16 questions. We already talked about your annual
17 revenue. I guess that's in line with your gross sales
18 of approximately 6.2 thousand, 6.2k. Is that fair to
19 say?

20 A. Yes, sir.

21 Q. Again, a due diligence question: Is there

1 from you guys, Dan will let me know.

2 MR. REESE: Counsel, I think, let me just
3 check, your indulgence please, very good. Counsel, I
4 think this concludes our questioning. If you have any
5 follow-up questions for Mr. Bruckner you want to ask on
6 the record, feel free. But I think that's it from the
7 government.

8 MR. LENNINGTON: No. That's it for us.

9 MR. REESE: Thank you all very much. Have
10 a lovely day.

11 (Deposition concluded at 1:07 p.m.)
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21

1 State of Maryland

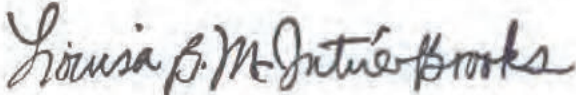
2 City of Baltimore, to wit:

3 I, Louisa B. McIntire-Brooks, a Notary
4 Public of the State of Maryland, County of Anne
5 Arundel, do hereby certify that the within-named
6 witness personally appeared before me at the time
7 and place herein set out, and after having been duly
8 sworn by me, according to law, was examined by
9 counsel.

10 I further certify that the examination
11 was recorded stenographically by me and this
12 transcript is a true record of the proceedings.

13 I further certify that I am not of
14 counsel to any of the parties, nor in any way
15 interested in the outcome of this action.

16 As witness my hand and notarial seal
17 this 12TH day of October, 2023.

18 

19 Louisa B. McIntire-Brooks

Notary Public

20 My Commission Expires:

21 November 13, 2023

Daniel Lennington

To: Christian Bruckner
Subject: RE: Orlando MBDA Business Center - Action Needed

----- Forwarded message -----

From: info@orlandombdacenter.com <info@orlandombdacenter.com>
Date: Thu, Jan 19, 2023 at 12:35 PM
Subject: Re: Orlando MBDA Business Center - Action Needed
To: Christian Bruckner [REDACTED]

Good afternoon Christian,

The MBDA's focus is to help grow businesses owned by people of ethnic minorities, but we do partner with other companies that can assist all types of businesses. If none of the options in the "Ethnicity" dropdown on the MBDA Intake Form apply, we can refer you to our strategic partner 3D Strategic Management for assistance. I will have them reach out to you for further information. They will be sending you an email from info@3DStrategicManagement.com to follow-up by the end of next week.

Sincerely,

[REDACTED]

Office Manager



Orlando MBDA Business Center

[1314 E. Robinson Street](#)

[Orlando, FL 32801](#)

[REDACTED]

[REDACTED]

[\[REDACTED\]@orlandombdacenter.com](mailto:[REDACTED]@orlandombdacenter.com)
www.OrlandoMBDACenter.com

**Exhibit
0005**

From: Christian Bruckner <[REDACTED]>
Sent: Wednesday, January 18, 2023 12:42 PM

To: info@orlandombdacenter.com <info@orlandombdacenter.com>
Subject: Re: Orlando MBDA Business Center - Action Needed

Yes

On Wed, Jan 18, 2023 at 12:38 PM info@orlandombdacenter.com <info@orlandombdacenter.com> wrote:

Hi Christian,

Just to clarify, were you referring to the "Ethnicity" dropdown options on the Intake Form?

From: info@orlandombdacenter.com <info@orlandombdacenter.com>
Sent: Wednesday, January 18, 2023 11:30 AM
To: Christian Bruckner <[REDACTED]>

Subject: Re: Orlando MBDA Business Center - Action Needed

Hi Christian,

If you do not identify as one of the "Ethnicity" dropdown options, we can refer you to one of our Strategic Partners for assistance with growing your business.

Sincerely,

[REDACTED]

Office Manager



Orlando MBDA Business Center

[1314 E. Robinson Street](#)

[Orlando, FL 32801](#)



[\[REDACTED\]@orlandombdacenter.com](#)
[www.OrlandoMBDACenter.com](#)

From: Christian Bruckner <[REDACTED]>
Sent: Wednesday, January 18, 2023 11:10 AM
To: Info@orlandombdacenter.com <[info@orlandombdacenter.com](mailto:Info@orlandombdacenter.com)>
Subject: Re: Orlando MBDA Business Center - Action Needed

Hello, thank you for your email response. I have a question. I do not see a box for disability and I don't meet the other boxes on the intake form. What do I need to do ?

Christian

On Wed, Jan 18, 2023 at 11:06 AM Info@orlandombdacenter.com <[info@orlandombdacenter.com](mailto:Info@orlandombdacenter.com)> wrote:

Good Morning,

We appreciate your interest in our services at The Orlando MBDA Business Center. We are currently onboarding our clients for the new year. In order to become a client, we will need you to complete our Intake Form and Client Engagement Form. I have attached the links to these forms within this email. Once you have completed the attached Client Engagement form, please send it back to us so we can review. If you have any further questions, please feel free to reach out to me.

Intake form - [Orlando MBDA Business Center Customer Application and Intake Form \(google.com\)](#)
Client engagement form – see attachment (Please remember the "client" is your company name)

Please note that if you do not qualify for our services through the MBDA Business Center, we will gladly refer you to a program that can assist you further.

We look forward to providing you with services and resources that will help you grow your business!

Sincerely,

[REDACTED]

Office Manager



[1314 E. Robinson Street](#)

[Orlando, FL 32801](#)

[REDACTED]

[REDACTED]

[\[REDACTED\]@orlandombdacenter.com](#)
www.OrlandoMBDACenter.com

Contact Us Form submitted on Orlando MBDA Business Center

Orlando MBDA Business Center <info@3dstrategicmanagement.com>

Fri 1/13/2023 8:50 AM

To:Info@orlandombdacenter.com <info@orlandombdacenter.com>

Name: Christian Bruckner

Last: Bruckner

Email: c [REDACTED]

Registered Business Name: Project Management Corporation

Best Number to Reach You: [REDACTED]

Areas of Need: Contracts and Procurement

Please share anything that will help the Orlando MBDA Business Center be of service to you. : Hello I am a small buisness in Tampa Florida. I would like more information that you can provide in reference to assisiting my small buisness in procuring state or federal contracts.

Thank you

Orlando MBDA Business Center - Action Needed

Info@orlandombdacenter.com <info@orlandombdacenter.com>

Wed 1/18/2023 11:06 AM

Bcc:ema

<rwcray

<

christian

<christianbnd

1 attachments (205 KB)

Orlando MBDA Business Center Client Engagement Form.pdf;

Good Morning,

We appreciate your interest in our services at The Orlando MBDA Business Center. We are currently onboarding our clients for the new year. In order to become a client, we will need you to complete our Intake Form and Client Engagement Form. I have attached the links to these forms within this email. Once you have completed the attached Client Engagement form, please send it back to us so we can review. If you have any further questions, please feel free to reach out to me.

Intake form - [Orlando MBDA Business Center Customer Application and Intake Form \(google.com\)](#).
Client engagement form – see attachment (Please remember the "**client**" is your company name)

Please note that if you do not qualify for our services through the MBDA Business Center, we will gladly refer you to a program that can assist you further.

We look forward to providing you with services and resources that will help you grow your business!

Sincerely,

[Redacted Signature]

Office Manager



Re: Orlando MBDA Business Center - Action Needed

Christian Bruckner <[REDACTED]>

Wed 1/18/2023 12:42 PM

To: info@orlandombdacenter.com <info@orlandombdacenter.com>

Yes

On Wed, Jan 18, 2023 at 12:38 PM info@orlandombdacenter.com <info@orlandombdacenter.com> wrote:

Hi Christian,

Just to clarify, were you referring to the "Ethnicity" dropdown options on the Intake Form?

From: info@orlandombdacenter.com <info@orlandombdacenter.com>

Sent: Wednesday, January 18, 2023 11:30 AM

To: Christian Bruckner <[REDACTED]>

Subject: Re: Orlando MBDA Business Center - Action Needed

Hi Christian,

If you do not identify as one of the "Ethnicity" dropdown options, we can refer you to one of our Strategic Partners for assistance with growing your business.

Sincerely,

[REDACTED]

Office Manager

Orlando MBDA Business Center

[REDACTED]

www.OrlandoMBDACenter.com

From: Christian Bruckner <[REDACTED]>

Sent: Wednesday, January 18, 2023 11:10 AM

To: info@orlandombdacenter.com <info@orlandombdacenter.com>

Subject: Re: Orlando MBDA Business Center - Action Needed

Hello, thank you for your email response. I have a question. I do not see a box for disability and I don't meet the other boxes on the intake form. What do I need to do ?

Christian

On Wed, Jan 18, 2023 at 11:06 AM info@orlandombdacenter.com <info@orlandombdacenter.com> wrote:

Good Morning,

We appreciate your interest in our services at The Orlando MBDA Business Center. We are currently onboarding our clients for the new year. In order to become a client, we will need you to complete our Intake Form and Client Engagement Form. I have attached the links to these forms within this email. Once you have completed the attached Client Engagement form, please send it back to us so we can review. If you have any further questions, please feel free to reach out to me.

Intake form - [Orlando MBDA Business Center Customer Application and Intake Form \(google.com\)](#)

Client engagement form – see attachment (Please remember the "client" is your company name)

Please note that if you do not qualify for our services through the MBDA Business Center, we will gladly refer you to a program that can assist you further.

We look forward to providing you with services and resources that will help you grow your business!

Sincerely,

Kristi Jones

[REDACTED]



[REDACTED]

www.OrlandoMBDACenter.com

Re: Orlando MBDA Business Center - Action Needed

Info@orlandombdacenter.com <info@orlandombdacenter.com>

Thu 1/19/2023 12:35 PM

To: Christian Bruckner [REDACTED]

Good afternoon Christian,

The MBDA's focus is to help grow businesses owned by people of ethnic minorities, but we do partner with other companies that can assist all types of businesses. If none of the options in the "Ethnicity" dropdown on the MBDA Intake Form apply, we can refer you to our strategic partner 3D Strategic Management for assistance. I will have them reach out to you for further information. They will be sending you an email from info@3DStrategicManagement.com to follow-up by the end of next week.

Sincerely,

[REDACTED]
Office Manager



From: Christian Bruckner <[REDACTED]>
Sent: Wednesday, January 18, 2023 12:42 PM
To: Info@orlandombdacenter.com <info@orlandombdacenter.com>
Subject: Re: Orlando MBDA Business Center - Action Needed

Yes

On Wed, Jan 18, 2023 at 12:38 PM Info@orlandombdacenter.com <[info@orlandombdacenter.com](mailto:Info@orlandombdacenter.com)> wrote:

Hi Christian,

Just to clarify, were you referring to the "Ethnicity" dropdown options on the Intake Form?

Sent: Wednesday, January 18, 2023 11:30 AM

To: Christian Bruckner [REDACTED]

Subject: Re: Orlando MBDA Business Center - Action Needed

Hi Christian,

If you do not identify as one of the "Ethnicity" dropdown options, we can refer you to one of our Strategic Partners for assistance with growing your business.

Sincerely,

[REDACTED]
Office Manager

Orlando MBDA Business Center
[1314 E. Robinson Street](#)
[Orlando, FL 32801](#)

[REDACTED]
[@orlandombdacenter.com](mailto:info@orlandombdacenter.com)
www.OrlandoMBDACenter.com

From: Christian Bruckner [REDACTED]

Sent: Wednesday, January 18, 2023 11:10 AM

To: info@orlandombdacenter.com <info@orlandombdacenter.com>

Subject: Re: Orlando MBDA Business Center - Action Needed

Hello, thank you for your email response. I have a question. I do not see a box for disability and I don't meet the other boxes on the intake form. What do I need to do ?

Christian

On Wed, Jan 18, 2023 at 11:06 AM info@orlandombdacenter.com <info@orlandombdacenter.com> wrote:

Good Morning,

We appreciate your interest in our services at The Orlando MBDA Business Center. We are currently onboarding our clients for the new year. In order to become a client, we will need you to complete our Intake Form and Client Engagement Form. I have attached the links to these forms within this email. Once you have completed the attached Client Engagement form, please send it back to us so we can review. If you have any further questions, please feel free to reach out to me.

Intake form - [Orlando MBDA Business Center Customer Application and Intake Form \(google.com\)](#)
Client engagement form – see attachment (Please remember the "client" is your company name)

Please note that if you do not qualify for our services through the MBDA Business Center, we will gladly refer you to a program that can assist you further.

We look forward to providing you with services and resources that will help you grow your business!

Sincerely,

[REDACTED]

Office Manager



[REDACTED]

[@orlandombdacenter.com](mailto:[REDACTED]@orlandombdacenter.com)
www.OrlandoMBDACenter.com

Re: Orlando MBDA Business Center - Action Needed

Info@orlandombdacenter.com

Wed 2/15/2023 1:09 PM

To: Christian Bruckner [REDACTED]

Hi Christian,

Thank you for reaching out to the Orlando MBDA Business Center with your inquiry. The Orlando MBDA Business Center's requirements are at least three years in business and \$500,000 in annual revenue. We would, however, like to refer you to our other program through 3D Strategic Management - The Business Incubator. The 3D Strategic Management Business Incubator is designed for businesses from start-up to scale up capacity. They provide one-on-one business technical assistance, virtual office space, outreach resource referrals, and more. Are you interested in earning your business development certifications? They can assist you in growing your holistic business knowledge. Here is their website so that you can explore the different Services and Membership options.

3dstrategicmanagement.com/incubator



**STRATEGIC
MANAGEMENT, INC.**
Business Incubator

3DSM Incubator - 3D Strategic Management, Inc.

3DSM Business Incubator more about our hub 3D Strategic Management's Business Incubator is your one stop shop for office space, mailing address, business development trainings, outreach meeting assistance, conference meeting space and business coaching. We are conveniently located in downtown Orlando with ample complimentary parking, security and access to

3dstrategicmanagement.com

We wish you and your business much success!

Best Regards,

[REDACTED]
The Orlando MBDA Business Center

[REDACTED]
@OrlandoMBDACenter.com

W: www.OrlandoMBDACenter.com

3D Strategic Management, Inc.

Operator

[REDACTED]
3DStrategicManagement.com

W: www.3DStrategicManagement.com

- U.S. Department of Commerce's Orlando MBDA Business Center (Operator)
- U. S. Department of Commerce's MBDA Infrastructure Initiative
- United States President Biden's African American/Rural Stakeholder- Office of Public Engagement
- Orlando Business Journal's Diversity in Business Honoree
- Host/ Creator of Women Empowerment Wednesday- Global Women's Empowerment Enterprise Platform

3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

Follow us on Twitter, Facebook, Instagram and LinkedIn

From: Christian Bruckner [REDACTED]

Sent: Wednesday, January 18, 2023 12:42 PM

To: Info@orlandombdacenter.com <info@orlandombdacenter.com>

Subject: Re: Orlando MBDA Business Center - Action Needed

Yes

On Wed, Jan 18, 2023 at 12:38 PM Info@orlandombdacenter.com <info@orlandombdacenter.com> wrote:

Hi Christian,

Just to clarify, were you referring to the "Ethnicity" dropdown options on the Intake Form?

From: Info@orlandombdacenter.com <info@orlandombdacenter.com>

Sent: Wednesday, January 18, 2023 11:30 AM

To: Christian Bruckner [REDACTED]

Subject: Re: Orlando MBDA Business Center - Action Needed

Hi Christian,

If you do not identify as one of the "Ethnicity" dropdown options, we can refer you to one of our Strategic Partners for assistance with growing your business.

Sincerely,

MBDA MSJ App. 00124

[REDACTED]
Office Manager



www.OrlandoMBDABusinessCenter.com

From: Christian Bruckner [REDACTED]
Sent: Wednesday, January 18, 2023 11:10 AM
To: info@orlandombdabusinesscenter.com <info@orlandombdabusinesscenter.com>
Subject: Re: Orlando MBDA Business Center - Action Needed

Hello, thank you for your email response. I have a question. I do not see a box for disability and I don't meet the other boxes on the intake form. What do I need to do ?

Christian

On Wed, Jan 18, 2023 at 11:06 AM info@orlandombdabusinesscenter.com <info@orlandombdabusinesscenter.com> wrote:
Good Morning,

We appreciate your interest in our services at The Orlando MBDA Business Center. We are currently onboarding our clients for the new year. In order to become a client, we will need you to complete our Intake Form and Client Engagement Form. I have attached the links to these forms within this email. Once you have completed the attached Client Engagement form, please send it back to us so we can review. If you have any further questions, please feel free to reach out to me.

Intake form - [Orlando MBDA Business Center Customer Application and Intake Form \(google.com\)](#)
Client engagement form – see attachment (Please remember the "client" is your company name)

Please note that if you do not qualify for our services through the MBDA Business Center, we will gladly refer you to a program that can assist you further.

We look forward to providing you with services and resources that will help you grow your business!

Sincerely,

[REDACTED]



- Complete the attached client engagement form. Please remember the "**client**" is your company name.
- Sign and return to our office. Please feel free to upload the forms into DocuSign if you do not have access to a printer. <https://www.docusign.com/>

We will schedule a consultation with you once we hear back from you, which will take about 30 minutes to discuss your company needs.

What are the programs that we offer to help your business grow?

- **Boots2Business**-Comprehensive business development trainings by experts in the field via our E-Learning Center
 - 42 current trainings are available
 - New trainings including Advanced Technology, Marketing, Public Relations, Manufacturing, Exporting and Federal Contracting
- **Power2Profit**-Access to Capital
 - Individual Financial readiness assessments
 - Assistance with loan documents preparation
 - Assistance with business credit and personal credit
 - Assess to financial lenders and advisors
- **Connect2Contract**- Access to Contracts
 - Advocacy and contract sourcing assistance
 - Access to 4 Committees- Finance, Government, Construction and Tourism/Manufacturing (32 members)
 - Supplier Diversity Expos/ Outreach Initiatives
 - Dodge Reports (Dodge: Data & Analytics)

Please note that if you do not qualify for our membership, we will gladly refer you to a program that can assist you further.

Have a great evening!

Sincerely,

[REDACTED]
Office Manager


MINORITY BUSINESS DEVELOPMENT AGENCY
BUSINESSCENTER
U.S. DEPARTMENT OF COMMERCE
Orlando MBDA Business Center
1314 E. Robinson Street
Orlando, FL 32801

[REDACTED]
orlandombdacenter.com
www.OrlandoMBDACenter.com

- U.S. Department of Commerce's Orlando MBDA Business Center (Operator)
- U.S. Department of Commerce's MBDA Federal Procurement Supplement

3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

Follow us on Twitter, Facebook, Instagram and LinkedIn

Hello From the Orlando MBDA Business Center

Info@orlandombdacenter.com <info@orlandombdacenter.com>

Fri 2/3/2023 4:28 PM

To:Christian Bruckner <[REDACTED]>

📎 4 attachments (5 MB)

Orlando MBDA Business Center Brochure 2022-2023.pdf; Orlando MBDA Business Center Client Engagement Form_Fillable.pdf; USDOC-EWOC Orlando MBDA BC-HOST.jpg; Orlando MBDA _ACCESS_CAPITAL_June28th.jpg;

Good Afternoon Christian,

Thank you for reaching out to the Orlando MBDA Business Center! We would love to share with you some exciting opportunities and program resources that could change the trajectory of your business. Have you thought about scaling your business up but didn't know where to start? You can stop looking, we are here to help you reach your business goals.

I've attached The Orlando MBDA Business Center's brochure for your review, and samples from some of our outreach last year.

Below you will see instructions on how to become a member of the Orlando MBDA Business Center.

How do you sign-up?

- If you have not already completed the client intake form, please do so at the following link. <https://docs.google.com/forms/d/e/1FAIpQLSfpRmDmp9bCLiYbrQBNWoCedlUr7eUOkG6zKw0h49PUAX7cOw/viewform>

Orlando MBDA Business Center Customer Application and Intake Form

The Orlando MBDA Business Center is federally funded by the U.S. Department of Commerce, Minority Business Development Agency (MBDA), and operated by 3D Strategic Management, Inc. Our clients are U.S. minority business enterprises (MBEs) owned and operated by African Americans, Asian Americans, Hasidic Jews, Hispanic / Latin

docs.google.com

- Complete the attached client engagement form. Please remember the "**client**" is your company name.
- Sign and return to our office. Please feel free to upload the forms into DocuSign if you do not have access to a printer. <https://www.docusign.com/>

We will schedule a consultation with you once we hear back from you, which will take about 30 minutes to discuss your company needs.

What are the programs that we offer to help your business grow?

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 - New trainings including Advanced Technology, Marketing, Public Relations, Manufacturing, Exporting and Federal Contracting

MBDA MSJ App. 00129

- **Power2Profit**-Access to Capital
 - Individual Financial readiness assessments
 - Assistance with loan documents preparation
 - Assistance with business credit and personal credit
 - Assess to financial lenders and advisors
- **Connect2Contract**- Access to Contracts
 - Advocacy and contract sourcing assistance
 - Access to 4 Committees- Finance, Government, Construction and Tourism/Manufacturing (32 members)
 - Supplier Diversity Expos/ Outreach Initiatives
 - Dodge Reports (Dodge: Data & Analytics)

Please note that if you do not qualify for our membership, we will gladly refer you to a program that can assist you further.

Have a great evening!

Sincerely,

[REDACTED]
Office Manager



MINORITY BUSINESS DEVELOPMENT AGENCY
BUSINESSCENTER
U.S. DEPARTMENT OF COMMERCE
Orlando MBDA Business Center
1314 E. Robinson Street
Orlando, FL 32801

[REDACTED]
[REDACTED]@orlandombdacenter.com
www.OrlandoMBDACenter.com

-U.S. Department of Commerce's Orlando MBDA Business Center (Operator)
-U.S. Department of Commerce's MBDA Federal Procurement Supplement

3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

Follow us on Twitter, Facebook, Instagram and LinkedIn

Small Business Training Opportunity - Upcoming Event

Info@orlandombdacenter.com <info@orlandombdacenter.com>

Thu 2/23/2023 6:19 PM

Bcc:

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A horizontal bar chart consisting of 25 solid black bars. The bars are arranged vertically, with their lengths varying significantly. The longest bar is the 14th bar from the top, extending across most of the width of the image. The bars at the top and bottom are the shortest, while the bars in the middle are generally longer, creating a roughly bell-shaped distribution of lengths.

100

[REDACTED]

[REDACTED]

<inspector@leap@gmail.com> info@islandvalhaircare.com

[REDACTED]

ess@gmail.com /kate@rest@notham.com

[REDACTED]

<e[REDACTED]@com> christian[REDACTED]

<christianb[REDACTED]

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We are excited to share this upcoming Small Business Training opportunity with you in hopes that you will be able to join the event hosted by The Small Business Administration in partnership with Dunbar Community leaders. Please see the flyer below for details as well as the topics that will be discussed at the event.

SMALL BUSINESS TRAINING OPPORTUNITY

Date: Saturday, February 25, 2023
Time: 9 a.m. – Noon
Location: Quality of Life Center
Address: 3210 Dr. Martin Luther King, Jr. Blvd,
Fort Myers, FL 33916
(Main Entrance & Parking located
on Quality Life Center Way)



The Small Business Administration (SBA) in partnership with Dunbar Community leaders, is providing training on the following topics:

- Small Business Contracting Assistance Programs
- Introduction to the **HUBZone Program**
- Understanding Government Contracting During Disaster Relief Efforts

Best,

Owner and CEO

3D Strategic Management, Inc.

@3DStrategicManagement.com

W: www.3DStrategicManagement.com

W: www.OrlandoMBDACenter.com



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MANAGEMENT, INC.**
Design. Develop. Deliver.

- U.S. Department of Commerce's Orlando MBDA Business Center (Operator)
- United States President Biden's African American Stakeholder
- Orlando Business Journal's Diversity in Business Honoree (2021)

3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

Follow us on Twitter, Facebook, Instagram and LinkedIn

Upcoming BBIF Financial Management Webinar

Info@orlandombdacenter.com <info@orlandombdacenter.com>

Thu 3/23/2023 9:21 AM

Bcc:

[REDACTED]

<christianb[REDACTED]>
<christianb[REDACTED]>
<eric@evaulttrucking.org> <laurence@yaho.com>

[REDACTED]

[REDACTED]; @orlandombdacenter.com> [REDACTED]
[REDACTED] @orlandombdacenter.com> [REDACTED] @orlandombdacenter.com> [REDACTED]
[REDACTED] @orlandombdacenter.com> [REDACTED] @orlandombdacenter.com>; [REDACTED]
[REDACTED] @3dstrategicmanagement.com> [REDACTED]
[REDACTED] @orlandombdacenter.com>

Hello Business Owner,

As part of our Power2Profit program, we are excited to share our strategic partner BBIF's upcoming Financial Management Essentials: Financial Analysis, Software, & Capital Event with you in hopes that you will be able to attend. This will be a great opportunity to learn more about understanding financial statements, different accounting software, and lending requirements. Please see below for additional details on this event.

FREE ONLINE WEBINAR

FINANCIAL MANAGEMENT ESSENTIALS:

FINANCIAL ANALYSIS, SOFTWARE, & CAPITAL

TUESDAY, MARCH 28TH
11AM - 1PM



KARLON JOHNSON
BBIF HOST

WHAT YOU'LL LEARN

- ✓ An understanding of Income Statements, Balance Sheets, & Statements of Cash Flow
- ✓ Accounting software that can be used to manage financials
- ✓ A refresher of lending requirements

REGISTER ONLINE AT:
[HTTPS://BIT.LY/FINLITWORKSHOPS](https://bit.ly/finlitworkshops)



POWERED BY
BIF

SPONSORED BY
FAIRWINDS FOUNDATION

OUR PARTNERING SPONSORS



CHASE BUSINESS

Best Regards,

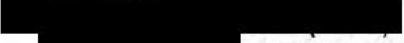
Director
The Orlando MBDA Business Center

[\[REDACTED\]@OrlandoMBDACenter.com](mailto:[REDACTED]@OrlandoMBDACenter.com)

W: www.OrlandoMBDACenter.com

3D Strategic Management, Inc.

Operator

DStrategicManagement.com

W: www.3DStrategicManagement.com



- U.S. Department of Commerce's Orlando MBDA Business Center (Operator)
- U. S. Department of Commerce's MBDA Infrastructure Initiative
- United States President Biden's African American/Rural Stakeholder- Office of Public Engagement
- Orlando Business Journal's Diversity in Business Honoree
- Host/ Creator of Women Empowerment Wednesday- Global Women's Empowerment Enterprise Platform

3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

Follow us on Twitter, Facebook, Instagram and LinkedIn

New Pollution Prevention (P2) Grant Opportunities Focused on Environmental Justice are Coming Soon!

Info@orlandombdcenter.com <info@orlandombdcenter.com>

Tue 3/21/2023 11:09 AM

Bcc:

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED] >christianb [REDACTED]
<christianb [REDACTED]
[REDACTED]

[REDACTED]

As part of our Power2Profit program, the Orlando MBDA Business Center would like to share the below information regarding these New Pollution Prevention Grant Opportunities in hopes that this may be beneficial to your business growth. Please see below for more information.

The two grant opportunities are:

- Eligible applicants include states, state entities such as universities, U.S. territories and possessions, and federally recognized Tribes and intertribal consortia. Applicants are encouraged to consider partnering with other P2 stakeholders and with community organizations to strengthen their ability to jointly develop and provide P2 technical assistance to businesses and facilitate the development, adoption, and dissemination of P2 solutions. For these grants, selected grantees will not be required to focus their technical assistance on the [National Emphasis Areas \(NEAs\)](#) and will not be required to provide matching funds.

- Have an active account on the [System for Award Management \(SAM\)](#).

Please note that it may take up to a month to complete registration on these systems.
For help with grant-related questions, e-mail p2hub@epa.gov.
To receive a notification when the grants are available, sign up to receive EPA's [P2 listserv](#).

This information is from The U.S. Environmental Protection Agency's Pollution Prevention Program. This information is being shared by the Orlando MBDA Business Center in order to provide assistance options to our clients and their businesses. For questions, please email the address mentioned above.

Best Regards,

[REDACTED]
Director
The Orlando MBDA Business Center
[REDACTED]
[REDACTED]@OrlandoMBDACenter.com
W: www.OrlandoMBDACenter.com

3D Strategic Management, Inc.
Operator
[REDACTED]
[REDACTED]@3DStrategicManagement.com
W: www.3DStrategicManagement.com

-U.S. Department of Commerce's Orlando MBDA Business Center (Operator)
-U. S. Department of Commerce's MBDA Infrastructure Initiative
-United States President Biden's African American/Rural Stakeholder- Office of Public Engagement
-Orlando Business Journal's Diversity in Business Honoree
- Host/ Creator of Women Empowerment Wednesday- Global Women's Empowerment Enterprise Platform

3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

Follow us on Twitter, Facebook, Instagram and LinkedIn

Register to Learn More About New \$16 Million Pollution Prevention Grant Opportunities

Info@orlandombdcenter.com

Tue 3/21/2023 11:15 AM

Bcc



@orlandombdacenter.com>

As part of our Power2Profit program, the Orlando MBDA Business Center would like to share the below information regarding these New Pollution Prevention Grant Opportunities and the upcoming informative webinars in hopes that this may be beneficial to your business growth. Please see below for more information.

Join U.S. Environmental Protection Agency (EPA) in March for one of the four webinars to learn more about two new grant opportunities to advance environmental justice in underserved communities. These grants are made possible by President Biden's Bipartisan Infrastructure Law and are a critical component of the Biden-Harris Administration's [Justice40 Initiative](#), which aims to deliver 40% of the overall benefits of climate, clean energy and other investments to disadvantaged communities.

Individual grant awards may range from \$100,000 to \$800,000 for the funding period, or up to \$1.2 million for multi-state or multi-Tribal projects:

- [The Pollution Prevention Grant: Environmental Justice in Communities](#) will support technical assistance for businesses to specifically target and improve human health and the environment in disadvantaged communities. Applications for this grant are due by **June 6, 2023**. Additional information is available at [grants.gov](#) under Funding Opportunity Announcement EPA-I-OCSPP-OPPT-FY2023-001.
- [The Pollution Prevention Grant: Environmental Justice Through Safer and More Sustainable Products](#) will support P2 technical assistance to businesses to improve human health and the environment in disadvantaged communities by increasing the supply, demand and use of safer and more sustainable products, such as those that are certified by EPA's [Safer Choice](#) program, or those that conform to EPA's [Recommendations for Specifications, Standards and Ecolabels for Federal Purchasing](#). Applications for this grant are due by **June 20, 2023**. Additional information is available at [grants.gov](#) under Funding Opportunity Announcement EPA-I-OCSPP-OPPT-FY2023-002.

The webinars will provide information on the P2 grant programs, the application process and the [P2 Grant Partner Connection List](#), a new resource to help facilitate partnerships among potential applicants and P2 stakeholders including community organizations. A question and answer session and Spanish interpretation will be provided for each webinar.

- **March 21, 2023, 2 – 3:30 p.m. ET** - [Register here](#)
- **March 23, 2023, 2 – 3:30 p.m. ET (for Tribal entities)** - [Register here](#)
- **March 28, 2023, 2 – 3:30 p.m. ET** - [Register here](#)
- **March 30, 2023, 2 – 3:30 p.m. ET** - [Register here](#)

Tools and resources for prospective grantees, including pre-recorded webinars, writing guidance, networking tools, and helpful templates, can be found [online](#). Contact the P2 Hub Helpline for additional information or assistance: p2hub@epa.gov or (202) 566-0799.

This information is from EPA's Pollution Prevention Program. This information is being shared by the Orlando MBDA Business Center in order to provide assistance options and information to our clients and their businesses. For questions, please email the address above.

Best Regards,

[REDACTED]
Director
The Orlando MBDA Business Center
[REDACTED]
OrlandoMBDACenter.com
W: www.OrlandoMBDACenter.com

3D Strategic Management, Inc.
Operator

[REDACTED]
W: www.3DStrategicManagement.com

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-U. S. Department of Commerce's MBDA Infrastructure Initiative
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-Orlando Business Journal's Diversity in Business Honoree
- Host/ Creator of Women Empowerment Wednesday- Global Women's Empowerment Enterprise Platform

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Follow us on Twitter, Facebook, Instagram and LinkedIn

Upcoming Event - WMBI Conference & Pop-Up Bazaar

Info@orlandombdcenter.com

Fri 3/17/2023 5:06 PM

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1 attachments (135 KB)

WMBI Conference & Pop-Up Bazaar.JPG;

Good Afternoon Business Owner,

As part of our Boots2Business program, the Orlando MBDA Business Center is excited to share the upcoming 13th Annual Women Mean Business International Conference and Pop-Up Bazaar with you in hopes that you may be able to attend. This event is hosted by fellow MBDA Business Center Operator, Marie Gill of M. Gill & Associates, and will be an excellent networking opportunity. Please see the flyer below (also attached) for more information.



Best Regards,

Director

The Orlando MBDA Business Center

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-Orlando Business Journal's Diversity in Business Honoree

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3D Strategic Management, Inc. is dedicated to your company's growth by providing strategic business development services and customized training solutions.

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Fort Worth Division

JEFFREY NUZIARD, et al.

Case No.

4:23-CV-00278-P

Plaintiffs

vs.

District Judge

MINORITY BUSINESS DEVELOPMENT

Mark T. Pittman

AGENCY, et al.

Defendants

_____/

Volume I of the Zoom teleconferenced
deposition of JEFFREY NUZIARD was held on Tuesday,
October 3, 2023, commencing at 9:33 A.M., at virtual
location before Louisa B. McIntire-Brooks, Notary
Public.

Job No. CS6114803

REPORTED BY: Louisa B. McIntire-Brooks

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INDEX

Deposition of: Jeffrey Nuziard

October 3, 2023

Examination by:

Page:

Mr. Woolley

5

Exhibit No.

Marked:

Exhibit 1 MBDA 1 Notice of oral deposition

5

Exhibit 2 MBDA 2 certificate of filing

56

STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the witness may be remotely sworn.

PROCEEDINGS

Whereupon,

JEFFREY NUZIARD,

called as a witness, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

MR. LENNINGTON: This is Dan Lennington. I'm the attorney for Dr. Nuziard. I'll be defending the deposition.

MS. TOLLIVER: Cara Tolliver, attorney for Dr. Nuziard.

MR. JENKINS: Vendarryl Jenkins from the Department of Justice.

MR. REESE: Good morning. This is David Reese with Department of Justice.

MS. SHARMA: Good morning. This is Sapna Sharma. I'm with the Department of Commerce, General

1 Counsel's Office.

2 (Deposition Exhibit 1 was marked for
3 purposes of identification.)

4 EXAMINATION BY MR. WOOLLEY:

5 Q. You're here pursuant to a notice of
6 deposition that's been introduced as Exhibit 1. You
7 have had a chance to read that; correct?

8 A. Yes.

9 Q. Have you been deposed before?

10 A. I'm sorry?

11 Q. Have you been deposed before?

12 A. Yes.

13 Q. How many times?

14 A. Twice.

15 Q. When was the first time?

16 A. 1993, I guess, '94.

17 Q. Do you remember what type of case it was?

18 A. I don't think it matters. An investigatory
19 case.

20 Q. What kind of investigatory case?

21 A. Business investigatory case.

1 Q. So you're eligible for veterans' benefits?

2 A. Yes, I am.

3 Q. When you were on active duty, what rank did
4 you hold when you left?

5 A. E-4. Promotable -- I was -- I turned down
6 my E-5 promotion to get out.

7 Q. Is that Navy?

8 A. Please. Army.

9 Q. Army. Okay. When you left the Reserves,
10 were you in the same rank?

11 A. Yes, I was. Yes.

12 Q. You mentioned you gave a deposition in a
13 lawsuit back in 1993 when you said you were -- were you
14 a defendant in that case?

15 A. Yes, I was.

16 Q. Any other lawsuits where you have been a
17 plaintiff or a defendant that you have been part of?

18 A. No.

19 Q. Just tell me about this 1993 case where you
20 were a defendant. You mentioned it was a business
21 dispute. What kind of business dispute was that?

1 A. I'd rather not discuss all that because I
2 have been told by my previous attorneys with that case
3 to never discuss it. It was with government officials.

4 Q. Was it county? County government?

5 A. Yes.

6 Q. Were you running a business at that time?

7 A. Yes, I was.

8 Q. What was the business that you were
9 running?

10 A. It was a church ministry at a church. A
11 parachurch ministry.

12 Q. You say it was a church ministry. How is
13 that a business for you?

14 MR. LENNINGTON: Objection. I'm going to
15 instruct the witness not to answer to the extent he's
16 been told by law enforcement officials not to disclose
17 investigatory information or leads or grand jury
18 proceedings. Also, I'm going to object that this is an
19 unduly waste of time, overly burdensome, it's meant to
20 harass and annoy the witness. What we stated on the
21 record that we have only a certain amount of time here

1 MR. WOOLLEY: Okay. I'll just say for the
2 record that his business experience is relevant to the
3 case. But we'll move on.

4 Q. My understanding is you have a Ph.D.; is
5 that right?

6 A. It's an honorary Ph.D. I invented a
7 protocol and was gifted that. And it was patented.

8 Q. You told me about --

9 A. That was breaking up really bad. I heard
10 about two words there. Can you say it again?

11 Q. When you say you invented a protocol, what
12 do you mean?

13 A. Invented a medical protocol to reverse
14 erectile dysfunction. I have been issued a patent on
15 it and was gifted an honorary Ph.D. for that work. Not
16 that that means anything because it's just a piece of
17 paper.

18 Q. Can you tell me when you invented the
19 protocol?

20 A. When?

21 Q. When did you invent and patent this?

1 A. Over a period of ten years. I finalized it
2 in -- I finalized it in 2017, '18, end of '17, the end
3 of '18 area and went to work on testing and more
4 research and development of it.

5 Q. Will you tell me about that process?

6 A. Can I tell you about the process?

7 Q. Yeah. Tell me about how you came up with
8 this idea, the steps you went through to implement the
9 idea and to start up this business.

10 A. So I'm 40 -- I'm 58 next week. When I was
11 40 years old, I started experiencing some erectile
12 dysfunction issues myself, was completely beside
13 myself, embarrassed and blown away and all that any
14 medical doctor had to tell me was I needed to be on
15 pills or have surgery and I was like, no, that's
16 unacceptable.

17 So, I had some -- a lot of doctor friends
18 and contacts. I went to every conference I could go
19 to. Went to -- I audited a couple classes. I had use,
20 full range use of a medical laboratory. I bought
21 cadavers. I did everything I could do to figure out

1 how to fix the problem in a regenerative fashion more
2 than a medical, pharmaceutical or surgical fashion. I
3 was able to take countless other Ph.Ds' and MDs'
4 research and connect the dots and figure out how to put
5 it all together and make it all work and today we enjoy
6 a 97 percent success rate.

7 Q. Can you tell me what's involved in the
8 protocol?

9 A. It's a multi modality protocol. There's
10 laser energy used, there's acoustic shock wave energy
11 used, there is a fluid that was compounded in a recipe
12 that I had worked up and came up with of exosomes and
13 amniotic fluid and different highly concentrated growth
14 factors involved, hormone replacement. It's multi
15 modality. There's several things involved.

16 Q. You mentioned that -- is that accurate?

17 A. Sorry. I got half of that.

18 Q. What?

19 A. I got half of that.

20 Q. I'm sorry. You cut out.

21 A. Am I cutting out? I'm sorry.

1 A. Just consultive.

2 Q. Did you bounce ideas off of them?

3 A. Correct. That's correct.

4 Q. How did you know them?

5 A. Just through business ventures, business
6 things. I was in the medical laser world for a while
7 and had a lot of -- a whole lot of friends that are
8 doctors.

9 Q. How many friends would you say you have
10 that are doctors?

11 A. I don't know. A lot.

12 Q. Dozens?

13 A. Yes. Yes. A lot.

14 Q. You mentioned that you also were able to
15 get access to cadavers?

16 A. That's correct.

17 Q. Was there any other kind of medical
18 equipment that you were able to get access to through
19 your friends?

20 A. Just research equipment, lasers and shock
21 waves and things that are available on the open market.

1 Q. Did you pay for the cadavers? How does
2 that work?

3 MR. LENNINGTON: Object to the form.
4 Compound question.

5 Q. How does it work accessing cadavers?

6 A. You have friends, you pay money, you get
7 cadavers. I don't know. I don't know where they came
8 from. I don't know where they got them from. I have a
9 lot of research friends. I have got a lot of scientist
10 friends and was able to -- be able to do investigatory
11 things.

12 Q. In terms of medical equipment, you
13 mentioned lasers. Is that correct?

14 A. Correct.

15 Q. You were able to access lasers?

16 A. Yes.

17 Q. Did you pay for access to those or was that
18 given to you? How did that -- how do you get access to
19 those?

20 A. You have friends and you ask and you
21 have -- yes. I had doctors doing experiments for me

1 background when you started --

2 A. I mentioned what?

3 Q. You mentioned that you had some medical
4 background; is that right?

5 A. No. I said I was in the medical laser
6 field.

7 Q. The medical laser field. What were you
8 doing in the medical laser field?

9 A. Selling lasers, working with doctors to
10 develop new protocols with those lasers.

11 Q. Were you on your own or were you working
12 with -- were you an employee?

13 A. I was an employee.

14 Q. What is the name of the company that you
15 worked for?

16 A. My comfort level of answering some of these
17 questions is I don't want to stir up any -- I know how
18 you attorneys are. When I say that, I don't mean that
19 in a derogatory fashion. I understand you guys got to
20 investigate. I get that. At the same time. I'm not
21 under investigation or under trial for anything. And

1 so I'm wondering why you need to have the specifics --
2 I'm not comfortable giving out businesses, names, phone
3 numbers, people I've worked with. I've got a lot on
4 the line right now with my patent being issued, and the
5 company, where it's at, and I've got a lot on the line
6 and I'm just not comfortable with any of this. If you
7 want to talk about why the case was brought against
8 MBDA, I would love to answer those questions.

9 MR. LENNINGTON: Perhaps I can help here,
10 Chris.

11 MR. WOOLLEY: Sure.

12 MR. LENNINGTON: To the extent there are
13 trade secrets that you have, Jeff, or agreements that
14 are confidential that would prohibit you from answering
15 certain questions because of the confidentiality of the
16 business relationship, if that is the case, then you
17 don't have to answer. But otherwise --

18 THE WITNESS: Just being in a lawsuit with
19 the government would affect the relationship with the
20 company.

21 MR. LENNINGTON: Chris, I think he's

1 A. On overall portfolio management.

2 Q. Did that involve learning financial
3 analysis and that type of thing?

4 A. Involved what?

5 Q. Financial analysis of companies?

6 A. Yes. Uh-huh.

7 Q. Talk to me about that.

8 A. About what?

9 Q. About your background in financial
10 analysis.

11 A. I just -- I can read a prospectus. I can
12 read track records.

13 Q. How long were you at New York Life?

14 A. Three years, maybe. Three. Let's see.
15 Three to four years. I don't remember.

16 Q. Then you went from there to what company?

17 A. Started -- I started my own, The Financial
18 Group it was called.

19 Q. What was the name of the business?

20 A. The Financial Group.

21 Q. What did you do?

1 A. Same thing.

2 Q. When you say same thing --

3 A. Mainly insurance portfolios, but I was -- I
4 had some -- I had some mutual funds under the
5 management at that time, but it was way overweighted
6 with insurances, wasn't -- it wasn't until way later
7 that I got into just doing securities and no insurance.

8 Q. When you say you were handling insurance
9 portfolios, what exactly do you mean by that?

10 A. Whole life insurance, universal life
11 insurance, disability insurance. Insurance.

12 Q. You were selling --

13 A. I didn't do P&C, property and casualty, but
14 I did life, health, disability, universal, whole life.

15 Q. You were selling insurance?

16 A. If needed. If that's what they needed,
17 yes. If not, they paid a fee just for consultation
18 purposes of their insurance portfolios. Back in that
19 day, everybody was selling whole life and universal
20 life as a secure safe investment. It really wasn't,
21 but that's what it was being sold as.

1 Q. When you say they, was it individuals or
2 was it businesses? Who was consulting with you?

3 A. Individuals.

4 Q. Were you providing business advice as part
5 of --

6 A. On how to run their business? No.

7 Q. You were providing financial advice to
8 individuals?

9 A. Insurance based financial advice, yes.

10 Q. What years did this business operate? The
11 Financial Group I'm talking about.

12 A. '93 to 2001. While at the same time, I
13 owned First Secured Mortgage Company.

14 Q. So explain to me what the business, First
15 Secured Mortgage, was in. What was that business
16 doing?

17 A. I'm sorry. The question is?

18 Q. What business were you in for First Secured
19 Mortgage? Explain to me what you were doing in that
20 business.

21 A. Selling mortgages, writing up mortgages for

1 individual home buyers and refinances. It was an
2 accidental business that did really well.

3 Q. How did you get into it?

4 A. By pure accident. I was referring people
5 that had too much debt to a guy across town to
6 refinance their house, to liquidate their debt and then
7 take that amount of -- what they were paying in debt
8 and put into the market for a retirement plan, and
9 after one year of doing -- referring and realizing he
10 didn't even say thank you, much less give me a ten cent
11 gift card, I was like, it can't be that hard to get
12 into the mortgage business. So I looked into it and
13 became a broker. First I became a correspondent, then
14 I became a broker, then I became an actual lender with
15 my own line of credit, funded mortgages with my own
16 underwriters and sold them and -- sold my mortgages in
17 \$5 million blocks.

18 Q. You say you sold you mortgages in \$5
19 million blocks. Can you explain that a bit?

20 A. Well, write the mortgages, you fund the
21 mortgages on your credit line and then you put a \$5

1 it again, pay it off and do it again and I kept getting
2 more and more -- and they kept extending my line of
3 credit more and more when I finally got 5 million on 90
4 days.

5 Q. When you said that business went from '93
6 to 2001, do you remember roughly when you got to that
7 \$5 million line of credit?

8 A. No, I don't. About '98, '99, maybe. I
9 don't remember.

10 Q. That business did pretty well for you?

11 A. It did okay.

12 Q. Why did you exit that business?

13 A. Because a partner that I had embezzled
14 \$7 million and the building mysteriously burned down
15 one day with all the paperwork in it while I was out of
16 town.

17 Q. How much money would you say you made from
18 that business?

19 A. How much money was I making through that
20 business?

21 Q. Did you make in total from that business

1 money I saved in the bank so I didn't work very much at
2 all. I was trying to save a marriage at that time.
3 And I just -- obviously I lived my life in there.
4 Wunderlich Securities was a couple years. It wasn't
5 more than two.

6 Q. So after your FINRA designation expires in
7 around 2014; is that correct?

8 A. I started with the laser company in 2014.

9 Q. You were doing that up until when?

10 A. 2020.

11 Q. Then you went into business for yourself?

12 A. At the best time possible, February 27th of
13 2020. Boy, I wish I knew different.

14 Q. Prior to starting at the medical laser
15 company, were there any professional organizations that
16 you were a part of?

17 A. No.

18 Q. No organizations that involved finance?

19 A. FINRA.

20 Q. After you began working at the medical
21 laser company through to the present, are there any

1 again, Mr. Nuziard, after I think it was a ten minute
2 break. Did you talk to anybody about your testimony
3 during the break?

4 A. No.

5 Q. So let's continue. I'm going to introduce
6 this exhibit. We'll mark it MBDA 2.

7 (Deposition Exhibit 2 was marked for
8 purposes of identification.)

9 MR. LENNINGTON: I see it up there now
10 because I refreshed. So, Jeff, you may have to refresh
11 your screen. It just came up.

12 THE WITNESS: I have it.

13 Q. It's document Bates numbered NUZ1?

14 A. I have it.

15 Q. Do you see that? Do you recognize this
16 document? Do you recognize this document?

17 A. Yes, I do. Uh-huh.

18 Q. What is it?

19 A. It's a filing.

20 Q. For the Sexual Wellness Centers of Texas,
21 LLC?

1 A. Correct.

2 Q. Is that the business that you opened in
3 2020?

4 A. That is correct. See, I told you not to
5 use my dates. I said February 27th and it's
6 February 26th.

7 Q. So tell me about the start-up process for
8 this business.

9 A. First you buy a building, not buy, you have
10 to lease a building, finish out work, buy your
11 equipment, spend about \$350,000, give or take, between
12 January and March 1st, hiring people and then I got
13 shut down and then I started January -- July 7th was my
14 first day open.

15 Q. July 7th, that was July 7th, 2020?

16 A. Yes.

17 Q. You mentioned getting a building. You
18 rent? You have two locations?

19 A. I do now. I didn't then. I do now.

20 Q. When did your first location open?

21 A. I just -- July 7th, 2020.

1 Q. Okay. July 7th, 2020. When did your
2 second location open?

3 A. April 10th, 2022.

4 Q. The July 7th, 2020 location, that was --
5 which one was that?

6 A. Frisco.

7 Q. You mentioned 350,000 in start-up cost. Is
8 that for the Frisco location?

9 A. I didn't say 360. I said approximately
10 350,000. I don't know how much. I don't have my books
11 in front of me and my accountant is not reachable. So
12 I don't know. It was roughly around that much and then
13 I had to rent the location, yes.

14 Q. How much was the rent that you were paying
15 for that location?

16 A. Like right at 6,000, give or take. 6,300
17 now, so I think it started at 6,000 for the first year,
18 per month. 6,000 a month.

19 Q. What medical equipment did you have to
20 purchase as part of the start-up?

21 A. Laser, shock wave machine, exam tables,

1 beds, lab equipment, computers, phones, needles,
2 syringes, gauze, tape, all kinds.

3 Q. In terms of employees, how many employees
4 did you hire at start-up?

5 A. One nurse practitioner and I did the
6 consultations and she did the medical -- all the
7 medical stuff and my wife at the time handled the front
8 desk.

9 Q. Did you have to pay anything for licenses?

10 A. Well, yeah. I don't -- yeah, I had to get
11 -- I had to be licensed -- pay to get set up as an LLC,
12 number one, then I had to get a city license, and a
13 state license, my nurse practitioner's license, her E&O
14 insurance, her DEA number.

15 Q. In terms of state license, is this a
16 medical clinic?

17 A. It is.

18 Q. What kind of licenses are required by the
19 state for a medical clinic?

20 A. None for me because I'm not a medical
21 doctor. The license by the nurse practitioner has to

1 be a license in good standing and has to be board
2 certified and be under a medical director which we are,
3 we have -- who is actually on staff now.

4 Q. How did you finance the start-up costs?

5 A. How did I what?

6 Q. Where did the money come from for the
7 start-up costs?

8 A. My pocket. My bank account. Money I
9 saved. Money I made.

10 Q. You didn't take any out loans?

11 A. I think I had a \$50,000 line of credit --
12 no, I did not have a \$50,000 line of credit at that
13 time. I ended up getting that because of Covid. I
14 needed help. But I didn't qualify for anything because
15 I was 15 days late getting my date -- I had to be
16 incorporated by February 15th and I was February 26th.
17 So, I didn't qualify for any help. I just paid bills
18 for seven months or whatever it was. It darn near
19 broke me.

20 Q. You paid those for seven months and then
21 what happened?

1 A. Yeah, seven months from January when I
2 started buying equipment and paying the lease on the
3 building until July 7th. I paid bills and bought
4 equipment and had zero revenue, zero dollars coming in
5 and no help. None.

6 Q. At the time of incorporation in
7 February 2020, did you look for any technical help in
8 starting up your business?

9 A. Define technical help.

10 Q. Did you rely on any -- did you retain
11 anyone to help you incorporate your business?

12 A. No.

13 Q. Did you retain anyone to provide you any
14 advice in starting your business?

15 A. Yes.

16 Q. Who?

17 A. An attorney.

18 Q. Anyone else?

19 A. No.

20 Q. How did you find this attorney?

21 A. Referral from a friend of mine who said he

1 was a great business attorney.

2 Q. Did you get any entrepreneurial assistance
3 in the start-up phase of your business?

4 A. What do you mean entrepreneurial
5 assistance?

6 Q. Business consulting.

7 A. No, I did not. Wasn't made available to
8 me.

9 Q. Management consulting?

10 A. Wasn't available.

11 Q. When you say it wasn't available to you --

12 A. The country was closed down. The country
13 was closed down. There was nobody to talk to.

14 Q. Then in July when you started -- well, did
15 you start seeing patients in July of 2020?

16 A. I think we had six patients that first
17 month, yeah. So we started seeing patients in July of
18 2020.

19 Q. What about for the rest of the year? Do
20 you have a rough sense of how many patients, customers
21 you had?

1 A. No, I do not. You have my books. I don't
2 know. I sent them to you -- or to my attorney who I
3 guess sent them to you. I don't know how many patients
4 I had. But it wasn't much. I was losing my butt fast.

5 Q. How many customers do you typically have
6 per day?

7 A. When?

8 Q. At your clinics.

9 A. When? Now?

10 Q. Yeah.

11 A. I think it varies. I have had good months
12 and bad months. I get probably 15 patients to 20
13 patients -- 15 patients a month between both clinics,
14 new patients.

15 Q. What is your patient fee arrangement?

16 MR. LENNINGTON: Objection, vague.

17 Q. Do you understand the question?

18 A. No.

19 Q. Okay. If I go to your clinic for a
20 consultation, how much do you charge?

21 A. I don't charge anything for consultation.

1 Q. After a consultation, what happens?

2 A. If they decide they want the treatment,
3 they pay. If they decide they do not want treatment,
4 they leave.

5 Q. What if they decide they want the
6 treatment? How much do you charge for that?

7 A. \$10,000.

8 Q. Is that a flat fee?

9 A. Yes.

10 Q. Whether you're a man or woman?

11 A. Whether you're a man or a woman.

12 Q. What is involved in the treatment?

13 A. I already explained that. You asked about
14 the protocol.

15 Q. So it's the protocol?

16 A. Yes.

17 Q. So the protocol, that's the lasers,
18 hormones; is that correct?

19 A. Yes, that's correct. Uh-huh. Shock wave.
20 It's a year-long treatment.

21 Q. So once you pay that \$10,000, you get a

1 year-long treatment?

2 A. Correct.

3 Q. Of the protocol?

4 A. That's correct.

5 Q. Do you come in every month?

6 A. Every other week. Every other week.

7 Q. So what led to the opening of a second
8 location? Why did you open a second location?

9 A. Because I wanted to grow. I wanted to have
10 another spot in that demographic because the
11 demographics were great. And when I couldn't get help
12 from MBDA, I went and raised some money on my own from
13 some people that I have known, and the contingency was,
14 well, let's make it more than one office and I'm in.
15 So, I raised money to do that.

16 Q. In terms of start-up costs for that
17 location, how much were the start up costs?

18 A. Just under 500,000.

19 Q. The Colleyville location, do you own the
20 building in that location or do you rent?

21 A. I don't own any real estate at this time.

1 Q. So that 500,000 in start-up costs, what
2 categories, what did that involve? What was --

3 A. Equipment, build-out, the same.

4 Q. Why was it more than the original start-up
5 costs for the Frisco location?

6 A. Because the laser costs more money. I was
7 an employee when I bought the other one. I got it
8 cheaper.

9 Q. When you say you were an employee, that's
10 an employee at the medical laser company?

11 A. Correct.

12 Q. Did you get any other equipment from the
13 medical laser company to start up your business?

14 A. No.

15 Q. The laser for the Colleyville location, did
16 you get that from the medical laser company as well?

17 A. No, I did not.

18 Q. When you opened this Colleyville location,
19 did you apply for loans?

20 A. No, I did not. In '21, I had secured a
21 line of credit to keep me afloat.

1 Q. How much was that line of credit you
2 secured in 2021?

3 A. I think it was 80,000.

4 Q. Did you apply for any loans in 2020 besides
5 that line of credit?

6 A. No. I talked to some bankers, but I wasn't
7 in much of a qualifying position at that point with
8 zero income and a business that could not bring
9 patients in. A little hard to lend money to that.

10 Q. Do you remember when you talked to these
11 bankers?

12 A. No, I do not.

13 Q. It was after the Frisco location was open
14 though?

15 A. If it was '21, then obviously, yes.

16 Q. In 2022, before you opened or in the lead
17 up to opening the Colleyville location, tell me about
18 all the efforts you made to find financing.

19 A. I'm sorry. There is an emergency going on
20 in my office. My phone is blowing up.

21 MR. LENNINGTON: Do we need to go off the

1 record, Jeff?

2 THE WITNESS: No. I just returned the
3 text.

4 A. Can you repeat the question please?

5 Q. So in the lead up to the opening of the
6 Colleyville location, talk to me about all the efforts
7 that you made to secure financing for the start-up
8 costs.

9 A. I raised money through private investors.

10 Q. Any other efforts?

11 A. No. I didn't qualify for any more loans.
12 And I sold my house.

13 Q. You say you didn't qualify for loans in
14 2022. What was the reason for that?

15 A. I have a zero business. I'm under water.
16 I'm drowning. I have got an 800 credit score but I'm
17 drowning.

18 Q. Were you getting a salary from the LLC in
19 2020?

20 A. No.

21 Q. At any time in 2021, did you receive a

1 salary from the LLC?

2 A. Second half of the year when I brought on
3 my first investor.

4 Q. What was that salary?

5 A. Like 60,000.

6 Q. Is that 60,000 a year?

7 A. Yes, it was set up as 60,000 for six months
8 but it was set up for 60,000 annually.

9 Q. So approximately \$5,000 a month over the
10 course of six months?

11 A. Yeah.

12 Q. What about in 2022?

13 A. When I brought on my other two investors
14 and we expanded the business plan, I am now at 160.
15 After giving away 40 percent of my company.

16 Q. Didn't you tell me your business is doing
17 well now?

18 A. No. I didn't say that at all. We're
19 losing about 44 -- we're about a \$46,000 a month burn
20 rate.

21 Q. When did you first approach MBDA for

1 assistance of your business?

2 A. I don't have the exact dates. It was in --
3 first I looked it up online in -- at the end of '21,
4 beginning of '22, and I don't remember if it was the
5 end of '21 or the beginning of '22. I kind of feel
6 like it was the -- I don't remember. I really don't
7 remember. And I called and I was told that I don't
8 qualify because it's for minorities only. I'm like,
9 geez, every government place tells me I don't qualify.
10 I'm 15 days late, now you're the wrong color.

11 Physically walked in the office in Fort Worth in --
12 again, I don't have the exact date, it was in '22. I
13 went like early spring -- I mean, late spring, early
14 summer, somewhere along that line, and was told by the
15 woman at the desk there that I don't qualify either.

16 Q. Do you have the name of the woman at the
17 desk who told you that?

18 A. I'm sorry?

19 Q. Do you have the name of the woman at the
20 desk who told you that?

21 A. I do not.

1 A. Charles Jordon.

2 Q. Can you spell that?

3 A. C-H-A-R-L-E-S J-O-R-D-A-N -- D-O-N. Sorry.

4 Q. In 2022, what were you seeking from the
5 MBDA? Let me specify. Let me ask the question
6 differently. In 2022, what were you seeking from the
7 Dallas Fort Worth Business Center?

8 A. I was looking for grant opportunities. I
9 was also looking for some legal advice and business
10 advice on the patent that has -- was taking very, very,
11 very, very, very long time. And I didn't get anything.

12 Q. Is this patent pending or has it been
13 issued?

14 A. Issued now.

15 Q. When was it issued?

16 A. About two, three weeks ago at the most.
17 Actually, I think it's going to be issued today. It
18 was allowed -- everything was allowed three weeks ago.
19 They said it takes two to three weeks for the issuance.

20 Q. What grant opportunities were you looking
21 for from the Dallas Fort Worth Business Center?

1 A. I'm sorry? What opportunities?

2 Q. You mentioned you were looking for grant
3 opportunities.

4 A. Any research grants or any business grants
5 that could help me because of all the making up I'm
6 trying to do from -- through this whole process. I
7 wanted to expand and I want to continue to do more
8 research. I do not have a patent on women yet and that
9 was next.

10 Q. What do you mean?

11 A. I only have the patent on erectile
12 dysfunction. I do not have --

13 Q. Okay. Got it. Did you have any written
14 correspondence with the Dallas Fort Worth Business
15 Center in 2022?

16 A. Written? No, never even got -- never even
17 got to put an application in. They asked me some
18 questions on the phone and I wasn't qualified, because
19 I wasn't a minority, and when I walked in, they asked
20 me some questions and that was even shorter. They
21 asked me some questions when I walked in and told me I

1 Q. Did they ask you what industry you were in?

2 A. They did.

3 Q. What was your response?

4 A. Medical.

5 Q. At the time that you spoke with the Dallas
6 Fort Worth Business Center in 2022, did you mention
7 that you needed help with a patent?

8 A. When I called or when I walked in?

9 Q. How about both? How about when you called?

10 A. When I called, I said I want some business
11 advice, some legal advice, and I want some
12 opportunities to apply for grants is what I said. They
13 said, what does the legal advice pertain to? We don't
14 do criminal. I said it's business and laughed at them,
15 it's business advice and it's toward the patent that
16 we're trying to get finished that had been in
17 application for quite some time at that point.

18 Q. Did you mention that in person when you
19 visited?

20 A. Not to that detail, no. I said I'm looking
21 -- what I said, I'm looking for legal advice, business

1 advice, business growth advice.

2 Q. What business advice were you looking for
3 in 2022?

4 A. Growth advice. Business growth advice.
5 Franchise model. No franchise model. I had a lot of
6 questions. I was looking for a lot of advice.

7 Q. Tell me some of the questions that you had.

8 A. The attorney is very expensive. What?

9 Q. Tell me some of the questions that you had.

10 A. I just did. Should I do a franchise model?

11 Should I just do a license model? What is a healthy

12 growth status? Or growth trajectory, I should say. I

13 had a lot of questions. My God. A lot. I wasn't

14 trying to actively seek out this place because I wanted

15 to go ask them how the weather was. I had a lot of

16 questions. A lot of business questions.

17 Q. After you visited in person, what did you
18 do in terms of getting that business advice? What
19 actions did you take?

20 A. I joined a business group called Business
21 Owners Education, BOE, called Business Owners

1 for any reason to reopen the deposition with the
2 remaining time that we have. We will do our best to
3 get him wrapped up by 2:00 p.m.

4 THE WITNESS: Will I be on the same link
5 that I just clicked on?

6 MS. TOLLIVER: Just to clarify, are we
7 scheduling Jeff's follow-up for 3:00 p.m. eastern time?

8 MR. WOOLLEY: 3:00 p.m. eastern time on
9 Thursday, the 5th.

10 THE WITNESS: Thank you. Appreciate you
11 doing that.

12 MR. WOOLLEY: Yes. So unless there's
13 anything anyone else has to say, we can go off the
14 record and plan on meeting October 5th at 3:00 p.m.
15 eastern and you will get a link.

16 THE WITNESS: Perfect. Okay.

17 MR. WOOLLEY: Thank you.

18 (Deposition suspended at 12:07 p.m.)
19
20
21

1 State of Maryland

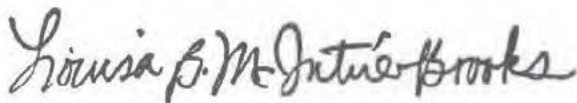
2 City of Baltimore, to wit:

3 I, Louisa B. McIntire-Brooks, a Notary
4 Public of the State of Maryland, County of Anne
5 Arundel, do hereby certify that the within-named
6 witness personally appeared before me at the time
7 and place herein set out, and after having been duly
8 sworn by me, according to law, was examined by
9 counsel.

10 I further certify that the examination
11 was recorded stenographically by me and this
12 transcript is a true record of the proceedings.

13 I further certify that I am not of
14 counsel to any of the parties, nor in any way
15 interested in the outcome of this action.

16 As witness my hand and notarial seal
this 10th day of October, 2023.

17
18 
19

Louisa B. McIntire-Brooks

20 Notary Public

My Commission Expires:

21 November 13, 2023



Office of the Secretary of State

CERTIFICATE OF FILING OF

Sexual Wellness Centers of Texas LLC

File Number: 803556066

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/25/2020

Effective: 02/26/2020



A handwritten signature in black ink, appearing to read "Ruth R. Hughes".

Ruth R. Hughes
Secretary of State

Exhibit
MBDA 0002
Nuziard

Come visit us on the internet at <https://www.sos.texas.gov/>

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Fort Worth Division

JEFFREY NUZIARD, et al.

Case No.

4:23-CV-00278-P

Plaintiffs

vs.

District Judge

MINORITY BUSINESS DEVELOPMENT

Mark T. Pittman

AGENCY, et al.

Defendants

_____/

Volume II of the Zoom teleconferenced
deposition of JEFFREY NUZIARD was held on Thursday,
October 5, 2023, commencing at 3:02 P.M., at virtual
location before Louisa B. McIntire-Brooks, Notary
Public.

Job No. CS6143496

REPORTED BY: Louisa B. McIntire-Brooks

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INDEX

Deposition of: Jeffrey Nuziard

October 5, 2023

Examination by:

Page:

Mr. Woolley

93

Exhibit No.

Marked:

NUZ 2 Equity purchase agreement

104

STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the witness may be remotely sworn.

PROCEEDINGS

Whereupon,

JEFFREY NUZIARD,

called as a witness, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

MR. WOOLLEY: Good morning -- afternoon Mr. Nuziard. This is Chris Woolley, trial attorney at the Department of Justice.

MR. JENKINS: Vendarryl Jenkins, also trial attorney at the Department of Justice.

MR. REESE: David Reese, also trial attorney at the Department of Justice.

MS. SODERSTROM: Sandra Soderstrom of the Department of Commerce.

MS. SHARMA: Sapna Sharma with the Department of Commerce.

1 MR. LENNINGTON: This is Dan Lennington.
2 I'm attorney for Jeff Nuziard.

3 EXAMINATION BY MR. WOOLLEY:

4 Q. Okay. Great. Good to see you again, Mr.
5 Nuziard. Since we're conducting the deposition via
6 Zoom again, I'd like to get an agreement from you on
7 the same things we agreed on last time. So, can you
8 agree not to make a recording of today's deposition?

9 A. Yes.

10 Q. Can you agree to remain on camera whenever
11 we're on the record?

12 A. Yes.

13 Q. Where are you located right now?

14 A. My house in Colleyville, Texas.

15 Q. Is there anyone else there with you?

16 A. No.

17 Q. Can you make sure and let us know
18 immediately if anyone enters the room during the
19 deposition?

20 A. That would be freaky because nobody is
21 home.

1 But please go on. What we could do is we could order
2 the transcript and then we could start over and you
3 could go take three hours next week because you have
4 already asked all these questions.

5 MR. WOOLLEY: Dan, I asked about 2022
6 because he said he reached out in 2022. So, if the
7 questions are repetitive, let him repeat.

8 Q. What were you seeking in 2023? Was it the
9 same? Why don't you just tell me. What were you
10 seeking in 2023? What services were you seeking?

11 A. Same thing I was seeking in 2022.

12 Q. How do you identify racially?

13 A. Caucasian.

14 Q. Do you identify as any other or any ethnic
15 group?

16 A. No.

17 Q. Do you identify as any other cultural
18 group?

19 A. No.

20 Q. How do you identify in terms of gender?

21 A. Male.

1 giving you detail on it. I take it with a grain of
2 salt now. It's the time and age we're living in.

3 Q. What about in terms of cultural prejudice?

4 A. In terms of cultural, what do you mean?
5 What's the question?

6 Q. Have you experienced cultural prejudice at
7 all?

8 A. Cultural, that's a very vague question. I
9 don't understand. I have many friends of all races.
10 So, I don't know. I don't understand the question.

11 Q. Okay. Do you identify with any cultural
12 group other than white?

13 A. No. I identify as a strong American and
14 that's mainly what I identify as. You're the first
15 time somebody has ever asked me how I identify as a
16 race. Actually that's the very first time I have ever
17 been asked that.

18 Q. I think you mentioned on Tuesday that your
19 monthly burn rate was, in the business was
20 approximately 47,000 a month. Is that accurate?

21 A. That's correct.

1 Q. Is your business losing money currently?

2 A. Yes.

3 Q. Was it losing money in 2023 when you
4 reached out to the Dallas Fort Worth Business Center?

5 A. Yes.

6 Q. So in terms of the burn rate, what was it
7 back then, if you remember?

8 A. It was a lot higher of a burn rate. I
9 don't remember, but -- specifically, but we have come
10 down. The burn rate has dropped quite a bit.

11 Q. So in terms of the current burn rate of
12 47,000 a month, how long is that sustainable would you
13 say?

14 A. Probably another year.

15 Q. And then what will happen if that burn rate
16 doesn't go down in a year?

17 A. I'll have to shut the door.

18 Q. You mentioned on Tuesday you got an
19 honorary Ph.D. Do you remember that?

20 A. Yes.

21 Q. When was it awarded to you?

1 A. 2017.

2 Q. From what institution?

3 A. University of North Texas.

4 Q. Where did you get your BA from?

5 A. Liberty University.

6 Q. What was the year that degree was awarded
7 to you?

8 A. That was awarded in May of 2017 as well.

9 Q. In terms of your military service, you said
10 you left your service as an E-4; is that right?

11 A. I left the service -- oh, yes. Yes.

12 Q. Is that the rank that's stated on your
13 DD214?

14 A. I don't know. I have my DD214 right here.

15 Q. Okay.

16 A. I lists E-4.

17 Q. In terms of all the businesses that you
18 started, I just want to make sure I have the complete
19 list. The Financial Group, that was a business you
20 started; is that right?

21 A. That's correct.

1 of your colleagues, it will be readily apparent that
2 this question and the answer is completely irrelevant
3 and a waste of the government's time, and frankly
4 describes and manifests the government's treatment of
5 this witness in a deposition the same way that they're
6 treating him with regard to his race. It's completely
7 inappropriate, it has nothing to do with qualifications
8 at the MBDA in 2023 and all of my objections have been
9 stated on the record.

10 MR. WOOLLEY: Thank you.

11 Q. Mr. Nuziard, is there anything you want to
12 change about your testimony today?

13 A. No.

14 MR. WOOLLEY: Well, that's it. Unless you
15 guys have any questions.

16 MR. LENNINGTON: No. We're concluded.

17 Thank you.

18 (Deposition concluded at 4:06 p.m.)
19
20
21

1 State of Maryland

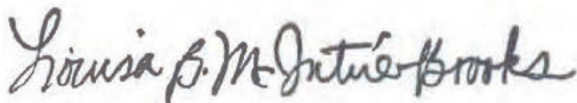
2 City of Baltimore, to wit:

3 I, Louisa B. McIntire-Brooks, a Notary
4 Public of the State of Maryland, County of Anne
5 Arundel, do hereby certify that the within-named
6 witness personally appeared before me at the time
7 and place herein set out, and after having been duly
8 sworn by me, according to law, was examined by
9 counsel.

10 I further certify that the examination
11 was recorded stenographically by me and this
12 transcript is a true record of the proceedings.

13 I further certify that I am not of
14 counsel to any of the parties, nor in any way
15 interested in the outcome of this action.

16 As witness my hand and notarial seal
17 this 12TH day of October, 2023.

18 
19

Louisa B. McIntire-Brooks

20 Notary Public

My Commission Expires:

21 November 13, 2023

School chief investigated again/ Second Chance teen allegedly struck by Nuziard

Rosemary Harris; Gazette Telegraph

El Paso County sheriff's officials are investigating new complaints of child abuse and assault against Jeff Nuziard, the founder/director of Second Chance Ministries, a Christian school for troubled boys.

Sheriff's Sgt. William Claspell said witnesses reported to deputies that Nuziard punched a 16-year-old student from Denver last Wednesday, blackening his eye, swelling his face and bruising his ear.

Formal charges of misdemeanor child abuse, third-degree assault and misdemeanor menacing are pending a 4th Judicial District Attorney's Office review, Claspell said.

The boy, whose name was not released, was treated at a local hospital Saturday.

Nuziard, who on Sunday said he had returned from vacationing in New Mexico to address the complaints, had little comment. "There have been many, many complaints," he said. "I have no comment on this one."

A year ago, state and local authorities raided and then closed the small, rural school near Calhan, saying it was unlicensed and that the staff had physically abused some of the 12 boys enrolled there and had detained others in handcuffs.

None of those charges was ever proven, however, and the Colorado Attorney General's Office later said the raid should not have occurred.

District Attorney John Suthers eventually charged Nuziard with misdemeanor child abuse in connection with the paddling of a student in December. Nuziard was given deferred prosecution in an agreement that put the case on hold for two years. The agreement mandates that the case could be reopened if Nuziard is convicted of any criminal wrongdoing during that time, with the exception of minor traffic offenses.

If the District Attorney's Office decides to pursue the new charges, it could also reopen prosecution on the old charge, a Sheriff's Office spokesman said.

Law enforcement officials would not reveal the events leading up to the latest allegation against Nuziard.

The alleged incident came to light when the parents of one student visited the school Saturday and found the Denver boy injured. The parents, Susie and Kenneth McCoy of Colorado Springs, notified sheriff's deputies, who arrived at the school about 5:30 p.m. Saturday. As they neared the 194-acre school site, deputies said they spotted a school van carrying nine students - including the alleged victim - driving away.

They stopped the van, and the injured boy was taken into protective custody by the Department of Social Services. He was treated at Memorial Hospital and released, Claspell said. Late Sunday, he

was reportedly back in Denver with his father.

Other students told deputies they had witnessed the beating and later took pictures of the injured boy. The film was turned over to deputies.

On Sunday, Nuziard said the school was still open, but he would not say how many students were still enrolled.

Just last month, the school reopened with 13 students and hosted a celebration attended by 250 people.

Nuziard said then that the school would continue to mix physical labor, tough discipline and a rigorous, Christian-based curriculum.

@CUTLINE: Gazette Telegraph - Second Chance Ministries, a school for troubled boys near Calhan, describes its Christian-based curriculum as mixing physical labor and tough discipline.

@CUTLINE: Nuziard: Given deferred prosecution last year.

Print

Nuziard is cited in assault/ Summons alleges attack on student

Teresa Owen-Cooper; Gazette Telegraph

The founder and former director of a Christian school for troubled boys was cited Tuesday with third-degree misdemeanor assault in connection with the beating and kicking of a 16-year-old student last week, officials said.

The legal action came a day after the board members of Second Chance Ministries accepted the resignation of school director Jeff Nuziard and closed down the Calhan-based boarding school. Board members said Tuesday they took the action because they had lost faith in Nuziard.

Nuziard was cited in October 1994 for misdemeanor child abuse in connection with a December 1993 paddling of a 15-year-old boy that left welts and bruises on his body.

"There was a concern that there is even an issue again," said board member Mike Ewoldt, who is a pastor of Storehouse Church in Hattiesburg, Miss. "I think, obviously, there were concerns or the allegations never would have been brought. The sad part of it is it creates suspicion. From the ministry side, it does the same thing. It puts everyone on edge."

The summons served Tuesday on Nuziard - through his attorney Greg Walta - alleges the school director punched and kicked a 16-year-old student in the face Sept. 20, officials said.

On Saturday, El Paso County sheriff's deputies were called to the school when a visiting parent discovered a boy with a black eye and swollen face. Later, other students told deputies they saw Nuziard assault the boy and took pictures of his injuries. The injured boy was taken into protective custody Saturday, treated at Memorial Hospital and released to his father.

If convicted of the latest charge, Nuziard faces from six months to two years in jail. His first appearance in county court is 9 a.m. Oct. 19.

The latest legal action also means that the previous case against Nuziard will be reopened, District Attorney John Suthers said Tuesday. The school's founder had agreed to a deferred prosecution in the 1994 child-abuse case. That agreement put the case on hold for two years, provided that Nuziard avoided other criminal charges.

Second Chance became a cause celebre among some people in El Paso County when it was raided and closed by authorities in August 1994 after allegations of physical abuse against some of the students. The state also said the school needed to be licensed. The raid sparked outrage among the school's supporters, who saw it as government intrusion on religion and accused local officials of overreacting.

The licensing issue was resolved in an agreement with the state. And although the District Attorney's Office said it had substantiated many of the child-abuse allegations, only Nuziard was charged in the paddling incident.

Since then, Second Chance officials have filed a lawsuit against county officials, claiming they were harassed and their rights violated. And in April, Second Chance reopened, combining Christian-

based curriculum, physical labor, Bible study, a tough exercise regimen and paddling as punishment. Officials said the approach was successful in reaching the troubled students. Many of the 13 students attending the school at the time of the latest closure are former gang members with criminal records, school officials have said.

Nuziard didn't return telephone calls Tuesday, and his attorney declined comment.

Board members said they were not sure whether they would open another school.

"I'm sure it's pretty far down the road," said board member Russ Walker, who also works at New Life Church in Colorado Springs, where Second Chance students worshiped. "It's a concept we believe in, but the reality of it - I'm not sure if it would work."

Walker said the board's decision to accept Nuziard's resignation and immediately close the school was "heart-grueling."

"I think there is a definite need for that type of ministry," he said. "The boys were very successful in turning their lives around. My regrets are that the reputation and integrity of the ministry have been tarnished."

When the allegations arose last year, board members said, they stood behind Nuziard because they believed he had done nothing wrong.

"Allegations can be made against anyone," board member Ewoldt said.

But now that similar allegations have arisen, board members said, it's too difficult to trust Nuziard.

"We need someone who has the maturity and expertise to handle the special kind of program," said board member and local psychologist John Rodwick, adding that the school had other troubles but declining to elaborate.

"Right now, we don't see anyone available. There is no question there has to be a toughness, someone who has the loving concern and at the same time the ability to control their own frustrations. That was a real concern to us."

Board members also pointed out that an agreement reached with the Colorado Attorney General's Office last year prohibits anyone, including Nuziard, from working at Second Chance if convicted of child abuse.

"If, in fact, the allegations are true, then he could no longer be director," Walker said.

The 194-acre ranch where the school was located is owned by Nuziard and was leased to the school's nonprofit parent organization, Second Chance Ministries, run by seven board members. The nonprofit organization will remain intact, as board members try to help students find programs to continue their education and rehabilitation. Also, board members will be responsible for dealing with any financial or legal issues after the school's closing.

CHRONOLOGY

Key dates in the controversy over Second Chance Ministries:

November 1993: Second Chance opens four miles southeast of Calhan on a 194-acre ranch.

Early 1994: Second Chance founder Jeff Nuziard notifies officials that three students had beaten another student. The attackers are convicted of third-degree assault and sentenced to jail. Authorities claim child neglect because of the incident.

April 12, 1994: The Colorado Department of Human Services orders the school to close because it isn't licensed. Second Chance responds April 18, saying it is a religious school and therefore exempt from state-licensing guidelines.

Aug. 29, 1994: Twenty-two law enforcement and social services authorities raid and close Second Chance amid allegations that the students were being physically abused and the school wasn't licensed.

October 1994: The Colorado Attorney General's Office withdraws its contention that Second Chance must be licensed and reaches an agreement that requires, among other things, that Second Chance develop a disciplinary policy.

Also, the District Attorney's Office substantiates many of the child abuse allegations but files only one criminal charge - against director Nuziard. The District Attorney's Office said the alleged victims, their parents and witnesses refused to cooperate with authorities. The one charge: misdemeanor child abuse, stemming from a December 1993 paddling of a student that left the boy with welts and bruises.

December 1994: Nuziard agrees to a deferred prosecution, meaning that the case would be put on hold for two years provided that Nuziard avoided other criminal charges.

April 1995: Second Chance reopens.

Sept. 20: A 16-year-old student reportedly is beaten and kicked in the face.

Sept. 25: Nuziard resigns, and Second Chance's board of directors close the school immediately.

Sept. 26: Nuziard is served a summons alleging third-degree misdemeanor assault.

@QUOTE: "My regrets are that the reputation and integrity of the ministry have been tarnished."
Second Chance Ministries' Russ Walker

Print

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JEFFREY NUZIARD, *et al.*,

Plaintiff,

v.

MINORITY BUSINESS DEVELOPMENT
AGENCY, *et al.*,

Defendants.

Case No. 4:23-cv-00278-P

District Judge Mark T. Pittman

DECLARATION OF MARGO POSEY

I, MARGO POSEY, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I am the President and CEO of the Dallas Fort Worth Minority Supplier Development Council. I have been President and CEO of the Dallas Fort Worth Minority Supplier Development Council since December 1, 1992.

2. In 2021, after winning a competitive bid process, the Dallas Fort Worth Minority Supplier Development Council entered into a cooperative agreement with the Minority Business Development Agency.

3. Under this cooperative agreement the MBDA agreed to provide funding to the Dallas Fort Worth Minority Supplier Development Council to operate the MBDA Business Center Dallas Fort Worth.

4. In determining whether to accept a business as a client, one of the MBDA Business Center Dallas Fort Worth requirements, posted on our website, is that the business

have “sustainable, stable & consistent revenue.” The Center established this requirement in accordance with guidance from the Notice of Funding Opportunity issued by MBDA for the Business Center Program. In looking at whether a client meets this factor, Center staff evaluates the potential client’s business model, revenue, losses and income to ensure that the client is a good fit and can benefit from the services offered.

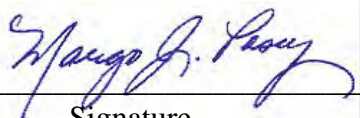
5. If the Center determines that the business does not have a sustainable business model, the Center will not offer client services to that business. The inability of a business to meet the financial requirements to qualify for business loans or financing is a factor showing the business does not have a sustainable business model.

6. The Business Center reserves the right to deny service to an applicant if, in the Business Center’s reasonable judgment, the applicant appears it may pose a danger to Business Center staff, employees or the community at-large based upon past or present criminal activities discovered by the Business Center.

7. If the Business Center determines that the business is a good fit for client services, the MBDA Business Center Dallas Fort Worth staff members provide business consulting services. Such services include assistance with packaging financial documents for loan programs, international trade consulting, and contract bid preparation support. However, the MBDA Business Center Dallas Fort Worth staff does not provide legal advice on patents, nor do we provide advice on business franchising or licensing. The MBDA Business Center Dallas Fort Worth does not provide direct grants or loans or any direct transfer of money to clients.

8. After reviewing the MBDA Business Center Dallas Fort Worth records, to the best of my knowledge and belief, Jeffrey Nuziard never contacted the MBDA Business Center Dallas Fort Worth.

I declare under penalty of perjury that the foregoing is true and correct.



Signature

10/24/2023

Date

2020

ending **DECEMBER 31, 2020**

► See separate instructions.

For IRS Use Only

<input type="checkbox"/> Final K-1		<input type="checkbox"/> Amended K-1		OMB No. 1545-0123	
Part III		Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items			
1	Ordinary business income (loss) - 257,807.	13	Credits		
2	Net rental real estate inc (loss)				
3	Other net rental income (loss)				
4	Interest income				
5a	Ordinary dividends				
5b	Qualified dividends	14	Foreign transactions		
6	Royalties				
7	Net short-term capital gain (loss)				
8a	Net long-term capital gain (loss)				
8b	Collectibles (28%) gain (loss)				
8c	Unrecaptured sec 1250 gain				
9	Net section 1231 gain (loss)				
10	Other income (loss)	15	Alternative min tax (AMT) items		
11	Section 179 deduction	16	Items affecting shareholder basis		
12	Other deductions	C*	4,558.		
		17	Other information		
		V *	STMT		
		AC *	STMT		
18	<input type="checkbox"/> More than one activity for at-risk purposes*				
19	<input type="checkbox"/> More than one activity for passive activity purposes*				
*See attached statement for additional information.					

SCHEDULE K-1 NONDEDUCTIBLE EXPENSES, BOX 16, CODE C

DESCRIPTION	AMOUNT	SHAREHOLDER FILING INSTRUCTIONS
EXCLUDED MEALS EXPENSES	4,558.	SEE SHAREHOLDERS INSTRUCTIONS
TOTAL	4,558.	

SCHEDULE K-1 SECTION 199A ADDITIONAL INFORMATION

THE SECTION 199A AMOUNTS TO BE USED IN THE CALCULATION OF THE QUALIFIED BUSINESS INCOME DEDUCTION ON YOUR 1040/1041 RETURN ARE REPORTED ON LINE 17, UNDER CODE V. PLEASE CONSULT YOUR TAX ADVISOR REGARDING THE CALCULATION OF QUALIFIED BUSINESS INCOME DEDUCTION, INCLUDING THE POSSIBLE AGGREGATIONS AND LIMITATIONS THAT MAY APPLY AND THE FILING OF THE 1.199A-4(C)(2)(I) ANNUAL DISCLOSURE STATEMENT.

SCHEDULE K-1 SECTION 199A ITEMS, BOX 17
CODE V

DESCRIPTION	AMOUNT
TRADE OR BUSINESS	
ORDINARY INCOME(LOSS)	-257,807.
W-2 WAGES	25,900.
UNADJUSTED BASIS	80,283.

SCHEDULE K-1 GROSS RECEIPTS FOR SECTION 448(C), BOX 17, CODE AC

DESCRIPTION	AMOUNT
GROSS RECEIPTS - CURRENT YEAR	131,000.

OMB No. 1545-0123

1 MBDA MSJ App. 00228 1
2021.06010 SEXUAL WELLNESS CENTERS O NUZIARD1

SCHEDULE K-1 SECTION 199A ADDITIONAL INFORMATION

THE SECTION 199A AMOUNTS TO BE USED IN THE CALCULATION OF THE QUALIFIED BUSINESS INCOME DEDUCTION ON YOUR 1040/1041 RETURN ARE REPORTED ON LINE 17, UNDER CODE V. PLEASE CONSULT YOUR TAX ADVISOR REGARDING THE CALCULATION OF QUALIFIED BUSINESS INCOME DEDUCTION, INCLUDING THE POSSIBLE AGGREGATIONS AND LIMITATIONS THAT MAY APPLY AND THE FILING OF THE 1.199A-4(C)(2)(I) ANNUAL DISCLOSURE STATEMENT.

SCHEDULE K-1 SECTION 199A ITEMS, BOX 17
CODE V

DESCRIPTION	AMOUNT
TRADE OR BUSINESS	
ORDINARY INCOME(LOSS)	-66,245.
W-2 WAGES	121,312.
UNADJUSTED BASIS	80,283.

SCHEDULE K-1 GROSS RECEIPTS FOR SECTION 448(C), BOX 17, CODE AC

DESCRIPTION	AMOUNT
GROSS RECEIPTS - CURRENT YEAR	712,276.

**Schedule K-1
(Form 1120-S)**Department of the Treasury
Internal Revenue Service**2022**For calendar year 2022, or tax
year beginning _____
ending _____

Final K-1

Amended K-1

OMB No. 1545-0123

**Shareholder's Share of Income, Deductions,
Credits, etc.** See separate instructions.

Part I Information About the Corporation		Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items	
A Corporation's employer identification number [REDACTED]		1 Ordinary business income (loss) - 676,349.	13 Credits
B Corporation's name, address, city, state, and ZIP code SEXUAL WELLNESS CENTERS OF TEXAS LLC [REDACTED]		2 Net rental real estate inc (loss)	
C IRS Center where corporation filed return E-FILE		3 Other net rental income (loss)	
D Corporation's total number of shares Beginning of tax year 100.00 End of tax year 100.00		4 Interest income 3,084.	
Part II Information About the Shareholder		5a Ordinary dividends	
E Shareholder's identifying number [REDACTED]		5b Qualified dividends	14 Schedule K-3 is attached if checked
F Shareholder's name, address, city, state, and ZIP code JEFFREY NUZIARD [REDACTED]		6 Royalties	15 Alternative min tax (AMT) items
G Current year allocation percentage ... 65.000000 %		7 Net short-term capital gain (loss)	
H Shareholder's number of shares Beginning of tax year 65.00 End of tax year 65.00		8a Net long-term capital gain (loss)	
I Loans from shareholder Beginning of tax year \$ End of tax year \$		8b Collectibles (28%) gain (loss)	
For IRS Use Only		8c Unrecaptured sec 1250 gain	
		9 Net section 1231 gain (loss)	16 Items affecting shareholder basis
		10 Other income (loss)	
		11 Section 179 deduction	17 Other information A 3,084.
		12 Other deductions A 113.	V * STMT AC * STMT
		18 More than one activity for at-risk purposes*	
		19 More than one activity for passive activity purposes*	
		*See attached statement for additional information.	

SCHEDULE K-1 SECTION 199A ADDITIONAL INFORMATION

THE SECTION 199A AMOUNTS TO BE USED IN THE CALCULATION OF THE QUALIFIED BUSINESS INCOME DEDUCTION ON YOUR 1040/1041 RETURN ARE REPORTED ON LINE 17, UNDER CODE V. PLEASE CONSULT YOUR TAX ADVISOR REGARDING THE CALCULATION OF QUALIFIED BUSINESS INCOME DEDUCTION, INCLUDING THE POSSIBLE AGGREGATIONS AND LIMITATIONS THAT MAY APPLY AND THE FILING OF THE 1.199A-4(C)(2)(I) ANNUAL DISCLOSURE STATEMENT.

SCHEDULE K-1 SECTION 199A ITEMS, BOX 17
 CODE V

DESCRIPTION	AMOUNT
TRADE OR BUSINESS	
ORDINARY INCOME(LOSS)	-676,349.
W-2 WAGES	309,302.
UNADJUSTED BASIS	325,906.

SCHEDULE K-1 GROSS RECEIPTS FOR SECTION 448(C), BOX 17, CODE AC

DESCRIPTION	AMOUNT
GROSS RECEIPTS - CURRENT YEAR	612,502.

SCHEDULE K-1 SCHEDULE K-3 NOTIFICATION

THE SCHEDULE K-3 HAS NOT BEEN PREPARED FOR YOU. YOU WILL NOT RECEIVE A COPY OF THE SCHEDULE UNLESS YOU REQUEST ONE.

**Schedule K-1
(Form 1120-S)**Department of the Treasury
Internal Revenue Service**2022**For calendar year 2022, or tax
year beginning _____
ending _____

Final K-1

Amended K-1

OMB No. 1545-0123

**Shareholder's Share of Income, Deductions,
Credits, etc.** See separate instructions.

Part I Information About the Corporation		Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items	
A Corporation's employer identification number [REDACTED]		1 Ordinary business income (loss) -208,107.	13 Credits
B Corporation's name, address, city, state, and ZIP code SEXUAL WELLNESS CENTERS OF TEXAS LLC [REDACTED]		2 Net rental real estate inc (loss)	
C IRS Center where corporation filed return E-FILE		3 Other net rental income (loss)	
D Corporation's total number of shares Beginning of tax year 100.00 End of tax year 100.00		4 Interest income 948.	
Part II Information About the Shareholder		5a Ordinary dividends	
E Shareholder's identifying number [REDACTED]		5b Qualified dividends	14 Schedule K-3 is attached if checked
F Shareholder's name, address, city, state, and ZIP code JOHNETTE VAN EEDEN [REDACTED]		6 Royalties	15 Alternative min tax (AMT) items
G Current year allocation percentage 20.000000 %		7 Net short-term capital gain (loss)	
H Shareholder's number of shares Beginning of tax year 20.00 End of tax year 20.00		8a Net long-term capital gain (loss)	
I Loans from shareholder Beginning of tax year \$ End of tax year \$		8b Collectibles (28%) gain (loss)	
For IRS Use Only		8c Unrecaptured sec 1250 gain	
		9 Net section 1231 gain (loss)	16 Items affecting shareholder basis
		10 Other income (loss)	
		11 Section 179 deduction	17 A Other information 948.
		12 A Other deductions 35.	V * STMT AC * STMT
		18 More than one activity for at-risk purposes*	
		19 More than one activity for passive activity purposes*	

*See attached statement for additional information.

SCHEDULE K-1 SECTION 199A ADDITIONAL INFORMATION

THE SECTION 199A AMOUNTS TO BE USED IN THE CALCULATION OF THE QUALIFIED BUSINESS INCOME DEDUCTION ON YOUR 1040/1041 RETURN ARE REPORTED ON LINE 17, UNDER CODE V. PLEASE CONSULT YOUR TAX ADVISOR REGARDING THE CALCULATION OF QUALIFIED BUSINESS INCOME DEDUCTION, INCLUDING THE POSSIBLE AGGREGATIONS AND LIMITATIONS THAT MAY APPLY AND THE FILING OF THE 1.199A-4(C)(2)(I) ANNUAL DISCLOSURE STATEMENT.

SCHEDULE K-1 SECTION 199A ITEMS, BOX 17
 CODE V

DESCRIPTION	AMOUNT
TRADE OR BUSINESS	
ORDINARY INCOME(LOSS)	-208,107.
W-2 WAGES	95,170.
UNADJUSTED BASIS	100,279.

SCHEDULE K-1 GROSS RECEIPTS FOR SECTION 448(C), BOX 17, CODE AC

DESCRIPTION	AMOUNT
GROSS RECEIPTS - CURRENT YEAR	188,462.

SCHEDULE K-1 SCHEDULE K-3 NOTIFICATION

THE SCHEDULE K-3 HAS NOT BEEN PREPARED FOR YOU. YOU WILL NOT RECEIVE A COPY OF THE SCHEDULE UNLESS YOU REQUEST ONE.

2022

For calendar year 2022, or tax
year beginning _____
ending _____

Shareholder's Share of Income, Deductions, Credits, etc. See separate instructions.

A Corporation's employer identification number

B Corporation's name, address, city, state, and ZIP code

SEXUAL WELLNESS CENTERS OF TEXAS LLC

C IRS Center where corporation filed return
E-FILE

D Corporation's total number of shares	
Beginning of tax year	<u>100.00</u>
End of tax year	<u>100.00</u>

E Shareholder's identifying number

F Shareholder's name, address, city, state, and ZIP code

THOMAS COUTURE

G Current year allocation percentage	15.000000 %
---	-------------

H Shareholder's number of shares	
Beginning of tax year	<u>15.00</u>
End of tax year	15.00

I	Loans from shareholder	
	Beginning of tax year	\$ _____
	End of tax year	\$ _____

For IRS Use Only

OMB No. 1545-0123

Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss) - 156,081.	13	Credits
2	Net rental real estate inc (loss)		
3	Other net rental income (loss)		
4	Interest income 712.		
5a	Ordinary dividends		
5b	Qualified dividends	14	Schedule K-3 is attached if checked
6	Royalties	15	Alternative min tax (AMT) items
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured sec 1250 gain		
9	Net section 1231 gain (loss)	16	Items affecting shareholder basis
10	Other income (loss)		
		17 A	Other information 712.
11	Section 179 deduction	V	* STMT
12 A	Other deductions 26.	AC	* STMT
18	More than one activity for at-risk purposes*		
19	More than one activity for passive activity purposes*		
	*See attached statement for additional information.		

*See attached statement for additional information.

SCHEDULE K-1 SECTION 199A ADDITIONAL INFORMATION

THE SECTION 199A AMOUNTS TO BE USED IN THE CALCULATION OF THE QUALIFIED BUSINESS INCOME DEDUCTION ON YOUR 1040/1041 RETURN ARE REPORTED ON LINE 17, UNDER CODE V. PLEASE CONSULT YOUR TAX ADVISOR REGARDING THE CALCULATION OF QUALIFIED BUSINESS INCOME DEDUCTION, INCLUDING THE POSSIBLE AGGREGATIONS AND LIMITATIONS THAT MAY APPLY AND THE FILING OF THE 1.199A-4(C)(2)(I) ANNUAL DISCLOSURE STATEMENT.

SCHEDULE K-1 SECTION 199A ITEMS, BOX 17
CODE V

DESCRIPTION	AMOUNT
TRADE OR BUSINESS	
ORDINARY INCOME(LOSS)	-156,081.
W-2 WAGES	71,377.
UNADJUSTED BASIS	75,209.

SCHEDULE K-1 GROSS RECEIPTS FOR SECTION 448(C), BOX 17, CODE AC

DESCRIPTION	AMOUNT
GROSS RECEIPTS - CURRENT YEAR	141,346.

SCHEDULE K-1 SCHEDULE K-3 NOTIFICATION

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